

WHITEFISH CITY COUNCIL
May 2, 2022
SPECIAL SESSION AT 5:15 P.M.

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, and Caltabiano. Mayor Muhlfeld and Councilors Feury, and Norton were absent. Staff present were City Manager Smith, City Clerk Howke and Parks and Recreation Director Butts

2) Interview

City Council interviewed incumbent Ross Doty for Police Commission; incumbent Melissa Hartman for Board of Park Commissioners; incumbent Christine Bleyhl for Architectural Review Committee; incumbents Edna White and Jessica Farnes for the Whitefish Convention and Visitors Bureau; and incumbents Trek Stephens and Chris Schustrom for the Resort Tax Monitoring Committee. Council also interviewed Ryan Kiefer for the Architectural Review Committee and Maggie Schwenker for the Whitefish Housing Authority and Whitefish Convention and Visitors Bureau.

3) Public Comment

None

4) Appointment

Deputy Mayor Sweeney reappointed Ross Doty and Melissa Hartman. The Council ratified his appointment.

Councilor Qunell made a motion, seconded by Councilor Caltabiano to reappointed Christine Bleyhl and appointed Ryan Kiefer to the Architectural Review Committee; reappointed Edna White and Jessie Farnes to the Whitefish Convention and Visitors Bureau, and appointed Maggie Schwenker to the Whitefish Convention and Visitors Bureau to complete the term ending 12/31/2024; and reappointed Trek Stephens and Chris Schustrom to the Resort Tax Monitoring Committee. The motion carried.

5) Adjourn,

Mayor Muhlfeld adjourned the meeting at 7:04 and opened the regular session.

/s/John Muhlfeld

Deputy Mayor Sweeney

Attest:

/s/Michelle Howke

Michelle Howke, City Clerk

WHITEFISH CITY COUNCIL

May 2, 2022

7:10 P.M.

1) CALL TO ORDER

Deputy Mayor Sweeney called the meeting to order. Councilors present were Qunell, Caltabiano, and Davis. Mayor Muhlfeld and Councilors Feury and Norton were absent. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, and Police Chief Kelch. Approximately 28 people were in the audience and 4 attended virtually.

2) PLEDGE OF ALLEGIANCE

Deputy Mayor Sweeney asked Edna White to lead the audience in the Pledge of Allegiance.

Deputy Mayor Sweeney moved agenda item 3) PRESENTATION to occur after agenda item 4) COMMUNICATIONS FROM THE PUBLIC.

Deputy Mayor Sweeney stated a Council member who is absent, requested a change to the agenda and asked if agenda item 7b) Ordinance amending Accessory Dwelling Units, be delayed to a date certain in the future. Council present chose to keep agenda item 7b) on the current agenda.

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)

Jan Metzmaker, 915 Dakota Avenue, stated she appreciates the direction the Whitefish Convention and Visitors Bureau (WCVB) has gone especially with the issues with COVID and the sustainability aspects of tourism. They are going in a good direction as far as informing the public. If you go to any town outside of a park, they are all getting inundated with tourist, and it is not all due to ads or the CVB. They should not get the blame for the influx. She thanked Executive Director Dylan Boyle for the great job that he is doing.

Mayre Flowers, Citizens for a Better Flathead, spoke towards agenda item 7b), regarding Accessory Dwelling Units (ADU). She encourages the council to postpone this item until a full council is present. If adding housing to these zones, it needs to be permanently affordable. This proposed ordinance does not address that.

Nathan Dugan, 937 Kalispell Avenue, via Webex, spoke towards agenda item 7b) regarding ADU regulations. The incentives for the deed restriction program will result in a lot of those being rented long term for at least five years to locals for affordable rates due to their size. He encourages the Council to approve the ordinance and move it forward.

3) PRESENTATION

a) Annual review and consideration of approval for Whitefish Convention and Visitors Bureau Marketing Plan and Budgeting for FY23 (p.51)

Maria Joos, Whitefish Convention and Visitors Bureau Chair introduced Executive Director Dylan Boyle. Dylan presented the Whitefish Convention and Visitors Bureau Marketing Plan and budget for Fiscal Year 2023. Documentation is provided in the packet on the website.

Councilor Davis made a motion, seconded by Councilor Qunell to approve the Whitefish Convention and Visitors Bureau FY23 Marketing Plan and the public portion of the budget of \$250,000. The motion carried.

5) COMMUNICATIONS FROM VOLUNTEER BOARDS

None

- 6) **CONSENT AGENDA** (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
- a) [Minutes](#) from April 18, 2022, Special Session (p.91)
 - b) [Minutes](#) from April 18, 2022, Regular Session (p.92)
 - c) [Consideration](#) of a request from Ben Davis, Seven Hills Construction, requesting a 24-month extension until May 6, 2024, of the preliminary plat for the Orchard Lane 4 Subdivision, a 5-lot subdivision on 1.74 acres located off Colorado Avenue (p.98)

Councilor Qunell made a motion, seconded by Councilor Caltabiano to approve the Consent Agenda as presented. Councilor Davis recused himself from this vote, his construction business is involved with agenda item 6c).

Councilor Qunell amended his motion, with permission from Councilor Caltabiano, to approve the minutes from April 18th and move item c) to the May 16th meeting agenda. The motion carried.

- 7) **PUBLIC HEARINGS** (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30-minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
- a) [Ordinance No. 22-](#); An Ordinance rezoning approximately 7.035 acres of land located at the northwest corner of the terminus of Pheasant Run, known as Tract 1 of COS Nos. 19966 in Section 1, Township 30 North, Range 22 West, P.M.M., Flathead County, Montana, from County R-3 (One-family Residential) to WB-2 (Secondary Business District) and WR-2 (Two-family Residential), and adopting findings with respect to such rezone (WZC 22-02) (First Reading) (p.106)

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

Deputy Sweeney opened the Public Hearing.

Kurt Vickman, applicant, stated due to the fact that the Baker Avenue Extension is going to be a major arterial, the Highway 93 Corridor Plan and Growth Policy called for higher density along what will be a busy road. They selected WB-2 as the commercial designation and WR-2 as the residential urban designation. There were three main reasons why they chose WR-2, outside the Corridor Plan and the Growth Policy; 1) they felt it was just really appropriate residential zoning for what will inevitably be a major arterial; 2) they thought it would be a good transition; 3) they felt like it began to address the need for Whitefish to have more housing. They have met with the Park Knoll community, and they had a great conversation.

Councilor Qunell asked, and Mr. Vickman stated they did consider adding WR-2 on both sides, but the Corridor Plan and the Land Use Designation Map clearly designates the west side as urban. They felt like they wanted to honor the Corridor Plan and be consistent with that.

Deputy Mayor Sweeney asked, and Mr. Vickman stated this particular parcel is sizable enough and is very dense with big trees to provide buffering.

Karen Giesy, 121 Park Knoll Lane, stated they had a very good meeting with Mr. Vickman, but she opposes the WR-2 zone designation. She proposes WR-1 in the back area and WR-2 in the front area. She stated currently there is not a valid traffic study in Whitefish; and there is a demand for single-family residences. She respectfully asks the Council to turn down this zone request and consider the future of Whitefish.

Rhonda Fitzgerald, 412 Lupfer Avenue, stated the applicant referred to the area along Baker Avenue as General Business District and that is not right. WB-3 is the General Business District, WB-2 is a Secondary Business District. For instance, retail is not an allowed use in the WB-2 District.

Adam Kincheloe, 90 Park Knoll Lane, owns the property south of this parcel. He agrees with Mrs. Giesy and thinks all of Park Knoll can get behind the blended zone with a WR-1 and WR-2. Development done smart is good. Everybody agrees we need more housing, but we need a little more consideration of how it is done.

David Hunt, 113 Park Knoll Lane, submitted a written document that is appended to the packet on the website and referred to it during his comments. He asks the Council to deny the WR-2 zoning as requested. It is not compatible with the adjacent properties bordering on the west or south.

Councilor Caltabiano addressed Mr. Hunt, in their packet there was a written comment to the Planning Board, he asked if Mr. Hunt raised the same comments that are being commented on tonight? Mr. Hunt said some, but he has added several as he spoke towards tonight.

Mayre Flowers, Citizens for a Better Flathead, 135 South Main, Kalispell, for the record would like to note that there was not access to this agenda item to prepare comments. She referred to comments that Council has heard from Michelle Tafoya, representing the South Whitefish Neighborhood Association, arguing that the changes to the zoning that were made to the Land Use Map were not made in accordance with the Growth Policy. She thinks the process could be improved. She encourages the Council to send this back to the developer and the neighbors. Council has the desire to provide housing for our community but do it in a way that respects the current neighborhood character. She asks the Council to spend time looking at the alternative findings. This is being proposed as a zone change because of the annexation, but this has much more long-term ramifications in terms of the future development. She does not think it is fair to ask the neighborhood to wait on promises. The developer and the neighborhood need more fair predictability and she thinks by sending this back and really encouraging the developer and the neighbors to see if they can come up with a compromise would be the appropriate solution.

Deputy Mayor Sweeney clarified that the information was provided on the website, the Council was able to review the information to prepare for the meeting.

Deputy Mayor Sweeney closed the Public Hearing and turned the matter over to the Council for their consideration.

Discussion followed between Councilor and staff; a traffic study is not required during zone designation; typically, arterials have commercial properties then high density and lower density as you get further towards the suburban densities.

Councilor Caltabiano made a motion, seconded by Councilor Davis to postpone this item to the May 16, 2022, and to leave the Public Hearing open. The motion to postpone carried.

- b) **Ordinance No. 22-06**; An Ordinance amending Zoning Regulations Title 11, Chapter 2, Article A (WA Agricultural District), Article B (WCR Country Residential District), Article C (WSR Suburban Residential District), Article D (WER Estate Residential District), Article E (WLR One-Family Limited Residential District), Article F (WR-1 One-Family Residential District), Article G (WR-2 Two-Family Residential District), Article H (WR-3 Low-Density Multi-Family Residential District), Article I (WR-4 High-Density Multi-Family Residential District); Chapter 3, Section 1 (Accessory Apartments); and Chapter 9, Section 2 (Definitions), of the Whitefish City Code (WZTA 22-04) (First Reading) **POSTPONED FROM 4/4/2022 PUBLIC HEARING CLOSED** (p.159)

Director Taylor reported there was a public hearing before the Council on April 4th. The Council then wanted to see further changes at a work session on April 18th. Out of that work session, Council asked Councilors Sweeney and Davis to work with staff to pull together a common draft between the conflicting ordinances. The minor changes that came forth since the last draft would be:

- Voluntary local resident deed restriction to lease with twelve-month leases for at least five years, which gains the following incentives: No additional parking requirement for ADU, ADUs can go up to 800 square feet (standard ADU remains 600 square feet), and eligibility for additional Legacy Homes Program incentives which could include impact and building permit fee reimbursement depending on funding.
- Both deed restricted and standard ADU's would be permitted and allowed to be rented without restriction in residential districts as long as they meet zoning requirements, which would include review of conformance with a future Design Guidelines and Best Practices. A requirement for no stairs in the front of the primary unit unless pre-existing was added, and maximum roof heights for detached ADU's would increase to 26' to allow for matching steeper pitched roofs while setting a two-story limitation.

Staff received 20 letters of support for the changes to the ADU regulations, there were two letters opposed and another that was concerned about eliminating the parking requirement.

Discussion followed between Council and staff; 11-3-1H addresses the property owner will receive incentives if they opt to place a deed restriction on their property for long-term lease with a minimum of 12 months for 5 years; either unit can be rented, the ADU would always have to have the deed restriction.

Councilor Caltabiano made a motion, seconded by Councilor Qunell to approve WZTA 22-06, the Findings of Fact in Exhibit B and the language in Exhibit A as recommended by staff and by the Planning Board.

Deputy Mayor Sweeney made a motion to amend the requirements that if a participant in this program wants to rent both dwellings, both must be rented for 12-months minimum. The motion failed for a lack of a second.

Councilor Caltabiano made a motion to add an amendment 11-3-1-H-4 to read *Property owners with existing ADUs, or property owners that have a valid conditional use permit for an ADU, who choose to enter into twelve-month minimum long-term leases for local residents and are willing to place a deed restriction on the property for a minimum of five (5) years that the ADU must be leased for a minimum of twelve months to a local resident may have the deed restriction that prevents the*

rental or lease of the accessory dwelling if the owner does not maintain permanent residence of the primary dwelling immediately removed. Councilor Caltabiano stated his intent is to provide the same incentives for existing ADUs. Directory Taylor stated the existing ADUs are deed restricted. That deed restriction is recorded and cannot be removed without the City signing off. One incentive might be to join this program for 12-month long term leases then the City will sign off to remove the existing deed restriction. This would remove the restriction requiring the property owner to live in the main unit. **The motion to amend failed for a lack of a second.**

Councilor Qunell stated it is time to move this forward. Councilor Davis supports this ordinance; this is an important change that we need to pass. The community needs help and housing, and this is an important piece of that puzzle.

The original motion to approve, without amendments carried.

- c) **Ordinance No. 22-__ ; 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 (WZTA 22-01) (First Reading) (p.295)**

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

Deputy Mayor Sweeney opened the Public Hearing.

Mayre Flowers, Citizens for a Better Flathead, handed written comments to the Council that are appended to the packet. They are not able to support what should be the City's clear vision for housing south of Hwy 40 and not the policy before them. They feel it allows for inappropriate commercial development down Highway 93 and only calling for housing behind this commercial. She encourages to keep the public hearing open and to continue to work and articulate the vision for the housing that this community would support.

Nathan Dugan, 937 Kalispell Avenue, via Webex, is a little bit concerned when talking about putting Silverbrook like developments out in this area. This is over two miles from the downtown core. There is very large amount of land between this space and the downtown. He questions if we really do care about traffic, and the environment. He worries we are looking at this as an easy place to put housing, while forgetting about our climate goals and not planning well for the future in that regard. We should be using our land efficiently and effectively.

There being no further public comment, Deputy Mayor Sweeney Closed the Public Hearing and turned the matters over to the Council for their consideration.

Councilor Caltabiano made a motion to approve WZTA 22-01, the Findings of Fact in Exhibit B and language in Exhibit A as recommended by the Whitefish Planning Board on January 20, 2022, and further amended and refined by the City Council and staff. The motion failed due to a lack of a second.

Councilor Qunell made a motion, seconded by Councilor Davis to postpone indefinitely Ordinance 22-__ ; An Ordinance to add Article Y, Chapter 2, Title 11 to establish a WB-T zoning district. Councilor Davis stated he struggles really hard with this; he does not know intuitively how to make it better. The motion to postpone indefinitely carried on a 3-1 vote with Councilor Caltabiano voting in opposition.

d) [Resolution No. 22-09](#); A Resolution amending an agreement with Montana Waste Systems, d/b/a North Valley Refuse, for solid waste collection and disposal (p.371)

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

Discussion followed between Council and staff; all residential locations will be required to have 96-gallon bear-proof container including those who currently share a 300-gallon container that is serviced in the alley and will now be required to roll their 96-gallon container to the curb for service. Residents who currently have a 96-gallon container will not be required to change their service location. Council has concerns with the logistics of curbside for those who are currently serviced in the alley.

Deputy Mayor Sweeney opened the Public Hearing.

Jay Wolf, 532 Second Street West, stated this is making town less affordable with the increased cost. He cannot think of a bear attack on people in Whitefish, Columbia Falls, Bigfork, or Kalispell in the city limits. We are in bear country that is the way it is. The quality of life for bears is going to improve but not for taxpayers with this whole thing.

Mayre Flowers, Citizens for a Better Flathead, applauds the City and the Public Works leadership in addressing this issue. It is time for the City to move forward with this. There are communities across the west that have put this in place, and they are safer, and the wildlife is safer. She urges the Council to move forward with approval of this contract.

Eric Wenham with Fish Wildlife and Parks stated it has been a long grueling battle. Last year, they knew of 19 individual bears that were in town on any given day, with multiple hundreds of incidents. They also had the grizzly bear on Fifth Avenue that killed chickens. Her name was Marah and has been removed at this point. However, four nights ago they had a radio collared grizzly bear walk down Fifth Avenue. This is a real deal. They have talked with the City Attorney at length about liabilities. He encourages the Council to look past the \$5.75 per month. It could be much higher in two months for a problem that is not going away and will need to be addressed as some point in time.

Councilor Davis asked, and Chad stated the new containers are Kodiak containers. The lid is lighter with a slide lock that can be pushed over to the side. These are a lot more user friendly than the older carts.

Charlie Duffy, 117 Park Knoll Lane, asked and Manager Smith stated there is generally a new container charge for the animal resistant. This is different because we are doing it citywide. The \$75 is taking the container and amortizing that over the period but also covers any repairs that might be needed.

Nathan Dugan, 937 Kalispell Avenue, lives a block from the river and has a 300-gallon container that is serviced in the alley. They are in favor of getting bear-resistant containers community-wide. He is sensitive to the price but views this as a small individual sacrifice for the greater good of the community. He would prefer to continue the service off the alley.

There being no further public comment, Deputy Mayor Sweeney closed the Public Hearing and turned the matters over to the Council for their consideration.

Councilor Davis made a motion, seconded by Councilor Qunell to approve [Resolution No. 22-09](#). Councilor Davis stated the cost and the extra difficulty of this is not lost on him. There are significant

bear human conflicts in town. He sees this as doing our part and it should move forward. Councilor Caltabiano is concerned with the logistics and feels there is work that could be done.

The motion to approve carried.

e) **APPLICATION WAS PULLED BY THE APPLICANT**

8) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

a) **Consideration to award construction contract for Spokane Avenue Watermain Replacement Project (p.379)**

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

Councilor Qunell made a motion, seconded by Councilor Caltabiano to award the construction contract to Sandry Construction in the amount of \$2,794,444. The motion carried.

9) COMMUNICATIONS FROM CITY MANAGER

a) **Written report enclosed with the packet. Questions from Mayor and Council? (p.386)**

None

b) **Other items arising between April 27th through May 2nd**

Manager Smith reported that Amtrak will be resuming seven day a week service on the Empire Builder effective May 23rd. They are also looking at expanding service up to 160 new communities over the next 15 years to provide more inner-city passenger rail. She also reported Sobba Cycle is ceasing operations on June 1st and will be vacating the premises by June 30th. Staff will be working on looking for a new tenant for the parking structure retail space.

10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

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

Council Comments

Councilor Caltabiano reported he is excited about the ADU regulations that were passed tonight. He voted with mixed feelings about the animal resistant containers. He has concerns about the people who have expressed their concerns to him and people who were respecting the rules. He has heard concern about the fees, and concerns of the logistics. He commits personally to gift to 10 people, the first full year of difference on their fees \$5.97. And to Carolyn and Catherine, he will come to help pull their can out.

Councilor Qunell reminded people of the Whitefish Trail Challenge to help the trail earn money. For every mile that you put on the trail earns a dollar for the Whitefish Trail.

11) 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 10:31 p.m.

/s/Francis Sweeney

Deputy Mayor Sweeney

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk