

WITEFISH CITY COUNCIL
May 18, 2020
SPECIAL SESSION 5:30 P.M.

1. Call to Order

The City Council meeting was held remotely through WebEx to follow Governor Steve Bullocks social distancing Directive to help slow the spread of COVID-19. Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Hennen, Sweeney, Norton, and Ben Davis. City Staff present were City Clerk Howke, City Manager Smith, Parks and Recreation Director Butts.

2. Interview

The City Council interviewed incumbents Luke Walrath, Jenny Cloutier and Mariah Joos for the Whitefish Convention and Visitors Bureau; incumbents Ray Boksich, Susan Schnee and Ron Brunk for the Board of Park Commissioners; incumbents Julia Olivares and Ken Stein for the Resort Tax Monitoring Committee and Jim Trout for the Police Commission.

3. Public Comment

None

4. Appointments

- a) **Park Board of Commissioners** – Three (3) positions advertised, received three (3) letters of interest- incumbents. Two -year terms; Mayoral appointment

Mayor Muhlfeld reappointed Ray Boksich, Susan Schnee and Ron Brunk to the Park Board of Commissioners. The Council ratified his appointment unanimously by roll call.

- b) **Police Commission** – One (1) position advertised, received one (1) letter of interest – incumbent. Three-year term; Mayoral appointment

Mayor Muhlfeld reappointed Jim Trout to the Police Commission. The Council ratified hi appointment unanimously by roll call.

- c) **Resort Tax Monitoring Committee** - Two (2) positions advertised, received two (2) letters of interest – incumbents. Three-year terms; City Council appointment

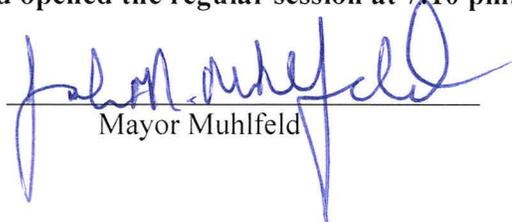
Councilor Feury made a motion, seconded by Councilor Hennen to reappoint Julia Olivares and Ken Stein to the Resort Tax Monitoring Committee. The motion passed unanimously.

- d) **Whitefish Convention and Visitors Bureau** – Three (3) positions advertised, received three (3) letters of interest – incumbents. Three -year terms; City Council appointment

Councilor Feury made a motion, seconded by Councilor Sweeney to reappoint Luke Walrath, Mariah Joos, and Jenny Cloutier to the Whitefish Convention and Visitors Bureau. The motion passed unanimously.

5. Adjourn

Mayor Muhlfeld adjourned the meeting at 6:48 p.m. and opened the regular session at 7:10 pm.



Mayor Muhlfeld

Attest:



Michelle Howke, Whitefish City Clerk

WHITEFISH CITY COUNCIL

May 18, 2020

7:10 P.M.

1) CALL TO ORDER

The City Council meeting was held remotely through WebEx to follow Governor Steve Bullocks social distancing Directive to help slow the spread of COVID-19. Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Hennen, Sweeney, and Norton. City Staff present were City Clerk Howke, City Manager Smith, City Attorney Jacobs, Finance Director Dahlman, Building and Planning Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Dial and Senior Planner Compton-Ring.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Councilor Norton to lead the audience in the Pledge of Allegiance.

3) COUNCIL APPOINTMENT

- a) **Consideration of appointment to fill Councilor Hartman's council position from which she resigned on May 4, 2020**

Councilor Sweeney made a motion, seconded by Councilor Norton to appoint Ben Davis to fill Councilor Hartman's position. The motion passed unanimously by roll call.

- b) **Administer oath of office – Mayor Muhlfeld**

Mayor Muhlfeld administered the oath of office to Ben Davis. Ben Davis attended the remainder of the meeting remotely.

- 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)**

Rhonda Fitzgerald, 412 Lupfer Avenue, spoke regarding WCUP 20-07, the property is zoned low density, resort residential. These can be separately owned condominium units, operating as mini hotels. Short term rentals are not what we need in our community. She hopes the Council will take it upon themselves not to grant the CUP.

Richard Hildner, 104 5th Street, congratulated Councilor Davis. He also recommended the Council to consider collecting the \$1.2 million affordable housing cash-in-lieu upfront at time of issuance of a building permit for WCUP 20-07.

5) COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Sweeney mentioned the Bike/Ped Committee has been asked to look into removing a tree that is overhanging the river south of the Columbia Avenue bridge.

6) CONSENT AGENDA

- a) **Minutes from May 4, 2020 Regular Session (p.45)**

Councilor Norton had corrections to the minutes; 1. Page 45,7th line under Hillary Hanson should read “three” not tree; 2. Page 46 Councilor Qunell... should read “cases” not cased. 3. Page 47 last line should read “just NOT the most ideal location”. **Councilor Norton made a motion, seconded by Councilor Sweeney to approve the Consent Agenda as corrected. The motion passed unanimously by roll call.**

- 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) **Consideration of a request from Ronnie and Sharon Kyle for a Conditional Use Permit to develop a 52-unit condominium project in three buildings, located at 1515 Highway 93 West, zoned WRR-1 (Low-Density Resort Residential District) (WCUP 20-07) CONTINUED/PUBLIC HEARING CLOSED (p.53)**

The Council continued this Public Hearing from May 4, 2020, closing the Public Hearing with a number of questions. Senior Planner Compton-Ring reviewed her transmittal report provided in the packet on the website. The application was submitted March 2nd, a decision is needed by May 31st. The applicant has provided an exhibit showing the location of trees to be preserved and is addressed in Condition 10.b. The applicant has indicated garbage will be located within the underground/under building and hauled to the entrance for pick-up. This project meets four of the five circumstances identified in the Legacy Homes Program regulations. The applicant proposed to pay the fee of \$1,216,072 at the time of Certificate of Occupancy per each unit. A building permit would be obtained for the shell of the building, and then with each condominium unit.

Discussion followed between council and staff regarding the timing of the payment for cash-in-lieu for affordable housing. The intent of the Legacy Homes Program has been to require the payment prior to issuance of the building permit. This project requires the \$1.2 million upfront, the City cannot spend that money until the project is built out. The city would be holding \$1.2 million.

Councilor Norton asked Planner Compton-Ring to display the 93 LLC project site plan. This project was approved near this proposed project and will have an effect on the traffic in this area and possibly the water drainage. Councilor Norton asked and Director Workman said there could be a danger to the golf course if the stormwater management systems for either project fail. The city requires an engineered stormwater management plan certified by a professional engineer; built per plan; and inspected. The city has records of the drawings and require maintenance for the plans. Director Workman also stated the number of trips per day would not warrant a signal.

Mayor Muhlfeld invited the applicant to share new information or clarify any questions that have been asked.

Eric Mulcahy, Sands Surveying, provided a letter in the packet on the website that addresses the concerns at the last meeting. Regarding the payment of the cash in lieu, their preference is to do it by unit, maybe at building permit for each unit. Because this project is going to require intensive groundwork and buildings 2 & 3 are connected by underground parking. The foundation system happens at one time. They do not have a lot of phasing going on with the three buildings. A compromise would be at the building permit for each unit, which would be comparable to the impact fees.

Sharon Kyle, applicant, stated the condo market is very difficult from a financing standpoint. It is a big price tag to pay up front. Their proposal to pay per unit at time of certificate of occupancy per each unit makes sense. They can satisfy the financing markets and satisfy the program.

Councilor Feury made a motion, seconded by Councilor Qunell to approve WCUP 20-07, the findings of fact in the staff report, amending Condition #11 – Compliance with the Legacy Homes Program approved housing mitigation plan will be met through the payment of \$23,386/unit at the issuance of building permit for each unit. Councilor Feury stated his preference is to get the \$1.2 million upfront but understanding that money cannot be used until the units are built, there needs to be that direct tie. His concern payment at the time of each building, if they do not finish out the units, we are going to have to give it back and not be able to use it until the units are built. That becomes problematic. If they build a shell, they probably are going to build that thing out. We have direct access to the money at that point. We can put that money to work as soon as the building permit is issued.

Councilor Sweeney made a motion, seconded by Councilor Qunell to add Condition #13 – on-site management shall be required upon the build-out of any buildings or unit. The motion passed unanimously by roll call.

More discussion followed regarding the cash-in-lieu; upon a pulling of a permit for building any unit in any building, they should be required to pay the cash in lieu for that building at issuance of the building permit or within one year of the issuance of permit. Phasing it by building gives incentive to market and complete the units. If not for the direct tie of being able to use the money to the unit actually being created, Councilor Feury would agree with Councilor Sweeney. Given the economic conditions of the development industry the City is being asked to be a financing partner. The City does not do it for any other cash in lieu programs. Other cash-in-lieu is paid at building permit. Councilor Sweeney believes once a building permit is pulled within that development the impacts are made. Regardless of how many are finished, the building is committed, and we are not getting any affordable units. That seems to be the time we could take and spend that money. Attorney Jacobs agreed and could see either way working.

Councilor Norton is uncomfortable the applicant is getting the benefit of the Legacy Homes Program in terms of increased density, and increased heights. She still has concerns of the traffic and the wetlands and does not feel positive of this project.

Councilor Qunell echoes Councilor Norton's concerns of the impact to the neighborhood, and how the underground parking is going to work in this location. He struggles with how we get the money for the Legacy Homes Program; it seems to him like a building permit for each building is the time to pay the cash in lieu.

Councilor Davis stated whether the cash-in-lieu is collected when it is the shell or the unit, he does not have any particularly strong feelings.

Councilor Feury made a motion, seconded by Councilor Qunell to amend his amendment to Condition #11 and have the cash in lieu be paid at the issuance of the building permit for the building shell. The motion to approve as amended passed 5-1, Councilor Norton voting in opposition.

- b) **[Ordinance No. 20-09](#); An Ordinance amending Title 6 – Motor Vehicles and Traffic, Chapter 1-General Traffic Provisions and Chapter 2- Stopping, Standing and Parking (First Reading) (p.154)**

City Attorney Jacobs gave her staff report that is provided in the packet on the website. After some discussion Council asked Attorney Jacobs to make the following changes; add recreation trailer to 6-2-

D; correct typo on 6-2-5 (G)(1)(c) Start and end date; and simplify the wording referencing delineated angled parking (52°) in 6-2-4 (A).

Mayor Muhlfeld opened the Public Hearing.

Chris Schustrom, 504 Spokane Avenue, commented about the re-parking section. In reading the Parking Management Plan, at the same time a new ordinance was enacted there should be options identified where people could move their cars. This might be a case of the cart ahead of the horse. It is a good idea but there should be an option identified before the no re-parking is enacted and enforced.

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

Councilor Qunell made a motion, seconded by Councilor Norton to adopt [Ordinance No. 20-09](#); An Ordinance amending Title 6 – Motor Vehicles and Traffic, Chapter 1-General Traffic Provisions and Chapter 2- Stopping, Standing and Parking (First Reading). The motion passed 5-1, Councilor Hennen voting in opposition by roll call.

- c) **[Resolution No. 20-15](#); A Resolution expressing support for the Flathead County Board of Commissioners to refer to the Flathead Communications Center Special District to a vote pursuant to the terms of Title 7, Chapter 11, Part 11, Part 10, MCA (2019) (p.170)**

Police Chief Dial gave his staff report that is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing.

Katie Williams, 427 West 2nd Street is a representative on the Funding Board. Representatives from all the municipalities in the county have come together to figure out what the best method for creating a new special district for assessing value throughout all of Flathead County. The County needs to raise about \$3.5 million each year for the Flathead Emergency Service Center. The burden falls on the municipalities each budget season. This ballot initiative supports the 9-1-1 infrastructure, specifically the technology, to receive 9-1-1 calls; locate 9-1-1 callers; page and dispatch emergency responders; and the ability to communicate between dispatch and the responders in the form of mountain talk repeaters. This is to find the long-term sustainable funding mechanism for the valley and to ensure we can provide the best emergency service possible and the public safety sector is top-notch as this valley continues to grow.

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

Councilor Sweeney made a motion, seconded by Councilor Hennen to approve [Resolution No. 20-15](#); A Resolution expressing support for the Flathead County Board of Commissioners to refer to the Flathead Communications Center Special District to a vote pursuant to the terms of Title 7, Chapter 11, Part 11, Part 10, MCA (2019). The motion passed unanimously by roll call.

8) COMMUNICATIONS FROM CITY MANAGER

- a) **[Written report](#) enclosed with the packet. Questions from Mayor or Council? (p.178)**

Councilor Norton asked and Manager Smith reported the Wave is taking every precaution possible for reopening.

b) Other items arising between May 13th through May 18th

Manager Smith reported Director Dahlman sent out the FY21 Proposed Budget and the FY20-25 Capital Improvement Program. The budget work session is May 26th at 5:30 via WebEx. She also announced Jay Barranger, Street Supervisor is retiring at the end of the month after 40 years of service. On behalf of the staff she wished him well and thanked him for his many years.

Director Butts gave an update on the operations of the parks. The department is operating under Phase 1 of the reopening plan. All bike and pedestrian paths and most open space parks are open. The boat launches at City Beach and State Park are open and performing regular inspections and decontaminations are also available. Tennis and pickleball courts are open with gate spray, hand sanitizer and hand-washing stations at each location. Playgrounds, public restrooms and public facilities, the dog park and skate park continued to be closed as well as garbage continues to be pack in and pack out. All picnic tables have currently been removed from parks. Recreational programming is cancelled, but staff are making plans for a Phase 2 Summer Day Camp as well as some new recreational programming with capacity limits, smaller ratios of children to the staff, social distancing protocols and sanitation guidelines in place. We are also finalizing plans for public facility cleaning protocols and standards. All plans are being made in coordination with the city county health department as well as state and federal guidelines. The ambassador program serves to help educate the public on the various rules of each park and park amenity and gather data on park use, social distancing in parks and compliance with park and park amenity closures. The ambassador program has made 102 data entries from 25 different parks and park amenity locations. Ambassadors sanitize garbage lid handles, and refill spray bottles and hand sanitizer as part of their rounds. She has received concerns of patrons not physical distancing, the data gathered from the ambassadors, the majority of citizens are distancing and obeying park rules. Additional ambassadors have been training for the reopening of the Wag Park which will happen in phase 2. Staff have begun to field more phone calls when the dog park and the skate park will open, however most individuals understand the need to follow the complexity of the federal, state, and local guidelines.

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

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

Appointments were made during the Special Session.

b) Appointments of City Council Members to Various Boards, Commissions and Committees

i) Whitefish Climate Action Plan Standing Committee – replace Councilor Hartman – Mayoral appointment (p. 186)

Mayor Muhlfeld appointed Councilor Davis to the Whitefish Climate Action Plan Committee. Council ratified his appointment unanimously by roll call.

ii) Whitefish Strategic Housing Plan Steering Committee – currently Mayor Muhlfeld and Councilor Norton serve; replace Councilor Hartman – Mayoral appointment (p.187)

Mayor Muhlfeld appointed Councilor Davis to the Whitefish Strategic Housing Plan Steering Committee. Council ratified his appointment unanimously by roll call.

iii) Legacy Land Advisory Committee and Whitefish Trails Operations Committee – currently Councilor Qunell serves on Legacy Land Advisory Committee, Councilor Feury is an alternate; replace Councilor Hartman on both committees -Council appointment (p. 188)

Councilor Sweeney made a motion, seconded by Councilor Qunell to appoint Councilor Feury to the LLAC and the Whitefish Trails Operations Committee. The motion passed unanimously by roll call.

iv) Tree Committee – replace Councilor Hartman – Council appointment (p.189)

Councilor Sweeney made a motion, seconded by Councilor Qunell to appoint Councilor Norton to the Tree Committee. The motion passed unanimously by roll call.

Councilor Comments

Councilor Sweeney asked if we have the ability to prevent camping at the trailheads. Director Butts stated camping is prohibited at Lion Mountain, she spoke with DNRC camping is allowed on DNRC land for two weeks. She will check into what we can do about camping at trailhead. Councilor Sweeney asked and Attorney Jacobs stated that building located at Second Street and O'Brien Avenue has been in litigation. She does not know if there is any way while in litigation to force them to finish the building, it could be considered relation of evidence. Councilor Sweeney would also like to look at ordinances that are a result of lessons learned, such as cash-in-lieu of affordable housing. We should have some mechanism to penalize people that fail to complete or timely finish buildings or project and leave them in such dilapidated state. He is concerned the wearing of masks and social distancing in some of our commercial areas is not happening as he would like to see. He would entertain a regular outreach to our businesses where this is important.

Councilor Feury welcomed Ben Davis. He asked Director Workman to keep an eye on The Quarry development hauling piles of dirt down LaBrie Drive, driving over the sidewalk and boulevard and dumping in the field. The boulevard has been destroyed, possibly the sidewalk, and all that material could have noxious weeds.

Councilor Norton is still working on doing a "Mask Our City Program". It might normalize the use of masks. It is a brand-new skill for all of us. She is glad we are progressing out of the lockdown but also feels we could do better with the social distancing and mask wearing in the community.

Councilor Qunell stated it made feel good hearing the word "community" during the interviews tonight. It gave him a good feeling listening to the volunteers talk about how many years they have been helping the city and it made him reflect on how much we rely on those people to give us good information and to keep the wheels of our government turning.

Councilor Davis thanked everybody for the kind words. He is happy to be here, and he feels very welcome. He appreciates it.

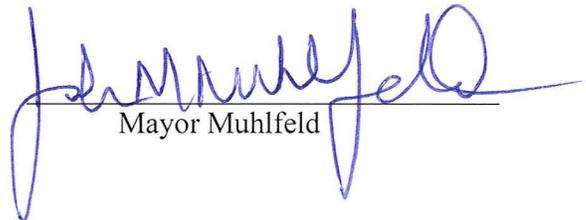
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Mayor Muhlfeld addressed Councilor Sweeney's comment in regard to the tree in the river; the city does not have jurisdiction over bed or banks of Whitefish River. It is either DNRC or FWP and they were unwilling to assist in the removal of that tree. The private landowner needs to file a permit with the Conservation District. He reached out to John Phelps and encouraged him to apply with the landowner. Secondly, at one-point council discussed an option as a community is to set a threshold or a cap by zoning district in terms of the number short term rentals within a district. He would like to see some options presented in a staff report, that gives some tools to help address this issue. Director Taylor stated there is a limited amount of resort residential property that is undeveloped, right now it is a use by right in those zoning districts. Council unanimously agreed to look into it. Lastly point Mayor Muhlfeld would like to review the types of uses allowed by right as well as conditionally within the 93-south corridor (WB-2). The use by right caused him some concern and citizens are asking why council is not doing something about it. The council agreed unanimously by roll call.

City Manager Smith reported in the budget staff is proposing to increase the part time customer service clerk at the front desk to full time, to improve the timeliness of investigation and enforcement efforts for short term rentals instead of using the current program software

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

Mayor Muhlfeld adjourned the meeting at 9:38 p.m.



Mayor Muhlfeld

Attest:



Michelle Howke, Whitefish City Clerk