

**WHITEFISH CITY COUNCIL**

**June 20, 2022**

**7:10 P.M.**

1) CALL TO ORDER

Deputy Mayor Sweeney called the meeting to order. Councilors present were Qunell, Feury, Caltabiano, Davis, Sweeney, and Norton. Mayor Muhlfeld was 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, Police Chief Kelch, Fire Chief Page and Senior Planner Compton-Ring. Approximately 9 people were in the audience and 3 attended virtually.

2) PLEDGE OF ALLEGIANCE

~~Mayor Muhlfeld~~Deputy Mayor Sweeney asked Richard Hildner 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)

Richard Hildner invited the Council and the public to a community forum, June 28<sup>th</sup> at the O'Shaughnessy Center, from 6:30 pm to 8:30 pm. This is a community forum for Living with Wildfire, that is sponsored by FireSafe Flathead and Flathead Families for Responsible Growth.

Lisa Jones provided a letter that is appended to the packet on the website and stated June is pride month and today is the observed Juneteenth day. She is asking Council for two actions; 1) officially initiate a city committee including diverse citizens representing historically marginalized disenfranchised and oppressed people in our community with the vision of using civic engagement, public awareness and community building to expand our DEI efforts; 2) consider making Juneteenth as an official city holiday starting in 2023 to demonstrate commitment and create more awareness on the focus of diversity, equity, and inclusion in Whitefish.

Mayre Flowers, Citizens for a Better Flathead (CFBF), via Webex, spoke towards the two annexation resolutions that are on the Consent Agenda. She asks the Council to pull the items from the Consent Agenda to allow the public more time to comment on what is being proposed. She states there is no vicinity map, the site maps within the description provided makes it very difficult to understand; there is no description for what is being proposed for zoning.

Lindsay Hromadka, Weinberg and Hromadka, 116 Lupfer Avenue Unit B, is an attorney and represents South Whitefish Neighborhood Association. Some of the directors of the association live adjacent to the parcel that is on the consent agenda item b, petition to annex. Her clients were not provided notice of this request and there was no public hearing. They object to this annexation request and ask the Council to pull this from the Consent Agenda and let the public provide comment.

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 June 6, 2022, Regular Session (p.16)
- b) [Resolution No. 22-10](#); A Resolution to annex within the boundaries of the City approximately 31.171 acres of land known as Tract 3 of COS No. 20440 in Section 1, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owners have petitioned and consented to annexation (p.21)
- c) [Resolution No. 22-11](#); A Resolution to annex within the boundaries of the City approximately 66.4 acres of land known as COS No. 2134 in Section 32 and 33, Township 31 North, Range 21 West, in Whitefish, Montana, for which the owners have petitioned and consented to annexation (p.32)

**Councilor Norton made a motion to remove agenda item 5b and 5c from the Consent Agenda for further discussion.**

**Councilor Qunell made a motion, seconded by Councilor Caltabiano to approve the minutes from June 6, 2022. The motion carried.**

After discussion between staff and Council pertaining to the two petitions to annex, the zoning change will need to go through the public process with the Planning Board and the City Council. A property owner petitions the City to annex, and then the process is started to either city initiate rezone to what the Growth Policy calls for or the equivalent county zoning, or the applicant-initiated zone change if they want something different than the county equivalent. The public will have opportunity to comment during the public process. City Attorney Jacobs stated a public hearing for annexation by petition is not required under state law.

**Councilor Davis made a motion, seconded by Councilor Caltabiano to approve Resolution No. 22-10 and Resolution No. 22-11. The motion carried.**

#### **RESOLUTION NO. 22-10**

**A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 31.171 acres of land known as Tract 3 of COS No. 20440 in Section 1, Township 30 North, Range 22 West, in Whitefish, Montana, for which the owner has petitioned for and consented to annexation.**

WHEREAS, Carter Unger, as authorized representative of Honor Bound, LLC, has filed a Petition for Annexation with the City Clerk requesting annexation and waiving any right of protest to annexation as the sole owner of real property representing 50% or more of the total area to be annexed. Therefore, the City Council will consider this petition for annexation pursuant to the statutory Annexation by Petition method set forth in Title 7, Chapter 2, Part 46, Montana Code Annotated; and

WHEREAS, services to the annexed area will be provided according to the City of Whitefish Extension of Services Plan, amended by the City Council by Resolution No. 18-16 on April 16, 2018, as required by and in conformity with §§ 7-2-4610 and 7-2-4732, MCA, available at the Office of the City Clerk; and

WHEREAS, pursuant to § 7-2-4211(2), MCA, the City shall include the full width of any public streets or roads, including the rights-of-way, that are adjacent to the property being annexed; and

WHEREAS, it is the considered and reasoned judgment of the City Council of the City of Whitefish that the City is able to provide municipal services to the area proposed for annexation. Further, it is hereby determined by the Whitefish City Council to be in the best interest of the City of Whitefish, and the inhabitants thereof, as well as the current and future inhabitants of the area to be annexed

described herein, that the area be annexed into the City of Whitefish and it is hereby declared to be the intent of the City of Whitefish that the corporate boundaries of the City of Whitefish be extended to include the boundaries of the area described in the Petition for Annexation within the limits of the City of Whitefish.

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

Section 1: The corporate boundaries of the City of Whitefish are hereby extended to annex the boundaries of the area herein described in the Petition for Annexation, according to the map or plat thereof, on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, legally described as:

TRACT 3 OF COS NO. 20440 IN SECTION 1, TOWNSHIP 30 NORTH, RANGE 22 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA.

Including the full width of any public streets or roads, including the rights-of-way, that are adjacent to the said property being annexed.

Section 2: The minutes of the City Council of the City of Whitefish, Montana, incorporate this Resolution.

Section 3: The City Clerk is hereby instructed to certify a copy of this Resolution so entered upon the June 20, 2022 Minutes of the City Council. Further that this document shall be filed with the office of the Clerk and Recorder of Flathead County. Pursuant to § 7-2-4607, MCA, this annexation shall be deemed complete effective from and after the date of the filing of said document with the Flathead County Clerk and Recorder.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 20TH DAY OF JUNE 2022.

/s/Francis J. Sweeney  
Francis J. Sweeney, Deputy Mayor

ATTEST:

/s/Michelle Howke  
Michelle Howke, City Clerk

**RESOLUTION NO. 22-11**

**A Resolution extending the corporate limits of the City of Whitefish, Montana, to annex within the boundaries of the City approximately 66.4 acres of land known as COS No. 2134 in Sections 32 and 33, Township 31 North, Range 21 West, in Whitefish, Montana, for which the owner has petitioned for and consented to annexation.**

WHEREAS, Brian Averill, as authorized representative of 1291 Edgewood, LLC, has filed a Petition for Annexation with the City Clerk requesting annexation and waiving any right of protest to annexation as the sole owner of real property representing 50% or more of the total area to be annexed. Therefore, the City Council will consider this petition for annexation pursuant to the statutory Annexation by Petition method set forth in Title 7, Chapter 2, Part 46, Montana Code Annotated; and

WHEREAS, services to the annexed area will be provided according to the City of Whitefish Extension of Services Plan, amended by the City Council by Resolution No. 18-16 on April 16, 2018, as required by and in conformity with §§ 7-2-4610 and 7-2-4732, MCA, available at the Office of the City Clerk; and

WHEREAS, pursuant to § 7-2-4211(2), MCA, the City shall include the full width of any public streets or roads, including the rights-of-way, that are adjacent to the property being annexed; and

WHEREAS, it is the considered and reasoned judgment of the City Council of the City of Whitefish that the City is able to provide municipal services to the area proposed for annexation. Further, it is hereby determined by the Whitefish City Council to be in the best interest of the City of Whitefish, and the inhabitants thereof, as well as the current and future inhabitants of the area to be annexed described herein, that the area be annexed into the City of Whitefish and it is hereby declared to be the intent of the City of Whitefish that the corporate boundaries of the City of Whitefish be extended to include the boundaries of the area described in the Petition for Annexation within the limits of the City of Whitefish.

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

Section 1: The corporate boundaries of the City of Whitefish are hereby extended to annex the boundaries of the area herein described in the Petition for Annexation, according to the map or plat thereof, on file and of record in the Office of the Clerk and Recorder of Flathead County, Montana, legally described as:

A TRACT OF LAND, SITUATED, LYING AND BEING IN THE NORTHEAST QUARTER OF SECTION 32 and IN THE NORTHWEST QUARTER OF SECTION 33, ALL OF TOWNSHIP 31 NORTH, RANGE 21 WEST, P.M.,M., FLATHEAD COUNTY, MONTANA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS TO WIT:

Certificate of Survey No. 2134 (records of Flathead County, Montana) and containing 66.4 ACRES; Subject to and together with all appurtenant easements of record.

Including the full width of any public streets or roads, including the rights-of-way, that are adjacent to the said property being annexed.

Section 2: The minutes of the City Council of the City of Whitefish, Montana, incorporate this Resolution.

Section 3: The City Clerk is hereby instructed to certify a copy of this Resolution so entered upon the June 20, 2022 Minutes of the City Council. Further that this document shall be filed with the office of the Clerk and Recorder of Flathead County. Pursuant to § 7-2-4607, MCA, this annexation shall be deemed complete effective from and after the date of the filing of said document with the Flathead County Clerk and Recorder.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 20TH DAY OF JUNE 2022.

/s/Francis J. Sweeney

Francis J. Sweeney, Deputy Mayor

ATTEST:

/s/Michelle Howke

Michelle Howke, City Clerk

- 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. 22-09**; An Ordinance rezoning approximately 13.448 acres of land located at 6335 Highway 93 S., known as Tract 1BB in Section 1, Township 30 North, Range 22 West, P.M.,M., Flathead County, Montana, from County R-3 (One-Family Residential) and County B-4 (Secondary Business) to WR-2 (Two-Family Residential) and WB-2 (Secondary Business), and adopting the findings with respect to such rezone (First Reading) (WZC 22-03) (p.45)

Senior Planner Wendy Compton-Ring presented her staff report that is provided in the packet on the website.

Deputy Mayor Sweeney opened the Public Hearing.

Dominic Goble, Morrison and Maierle, representing the applicant reported they are proposing townhomes to match the existing developments as a permitted use.

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

**Councilor Caltabiano made a motion, seconded by Councilor Qunell to adopt Ordinance No. 22-09; An Ordinance rezoning approximately 13.448 acres of land located at 6335 Highway 93 S., known as Tract 1BB in Section 1, Township 30 North, Range 22 West, P.M.,M., Flathead County, Montana, from County R-3 (One-Family Residential) and County B-4 (Secondary Business) to WR-2 (Two-Family Residential) and WB-2 (Secondary Business), and adopting the staff and Planning Board recommendations. The motion carried 5-1, Councilor Norton voting in opposition.**

- b) **Ordinance No. 22-10**; An Ordinance approving the MG Ventures Mixed Use Planned Unit Development to develop a three-story mixed-use building on 2.237 acres at 509 East 6<sup>th</sup> Street and 806 Spokane Avenue, Whitefish (First Reading) (WPUD 22-01)(p.96)

Senior Planner Wendy Compton-Ring presented her staff report that is provided in the packet on the website. Staff is recommending an additional 6-12 spaces be dedicated to the City for use of the park and trail.

Discussion followed between Council and staff pertaining to the park and how people are going to use it; the Park Board will identify what or how the park land will be used for. The community benefit of the parkland would be to serve as a river access point along the river trail if the topography allows; as open space to protect the river corridor. The presence of street trees and a boulevard along the highway would need to be approved by the Department of Transportation. The required parking for this project is 12 spaces, the plans have 24 spaces, which meets the standards for the current use of the proposed building.

Deputy Mayor Sweeney opened the Public Hearing.

Aaron Wallace, MT Creative, applicant representative stated the property that will be dedicated to the city for park land is undevelopable. This is a great opportunity for the city to acquire the land at no cost. They are conscious of the height concerned related to the neighborhood. The first floor is sunk down 2 feet to help reduce that impact along the street. The Architectural Review Committee did not have concerns of the flat roof aspect or the overall height and mass. They needed 12 spaces for parking to meet the zoning requirement, those will be signed and used as secondary parking for the residences and staff parking; six of the spaces will be signed for public use, and the remaining spaces will be unsigned and be used for overflow parking. They would like to keep the remaining six spaces under their name for future use of the commercial space with a different type of a use. They are agreeable to meeting with the Department of Transportation regarding the boulevard and street trees along the highway.

Monte Gilman, applicant provided some feedback on the dock. The acre on the river that will be given to the city if this is approved, allows for enough space to put a dock. The area they are proposing for a private dock is no better or worse than any other area along the acre of park to put a dock. Regarding the parking, he feels he should be able to decide how many parking spots he should get since he is the one who purchased the property and is taking on the debt. It costs a lot to build a parking lot and to engineer a parking lot. He feels he deserves those spot because they do not know the future of the building.

Rhonda Fitzgerald, 412 Lupfer Avenue, provided a letter and sketch that is appended to the packet on the website. The sketch proposes that the grassy boulevard with street trees and protected sidewalk that are existing to the north be continued on this property. This stretch is walked a lot and is pedestrian unfriendly. She is asking the Council to make a condition that they work out attractive high-quality streetscape with landscaping, sidewalks, street trees, and high-quality street lighting fixtures. That is the requirement for the Planned Unit Development. This section is called out in the Highway 93 S. Corridor Plan for improvement.

Mayre Flowers, CFBF, via Webex, supports the comments made by Rhonda Fitzgerald. She also provided written comments that are appended to the packet on the website. She has concerns of the scale of this building and the process with architectural design where the public is not understanding how this can be made more compatible with the neighborhood at this point is a problem. She encourages the Council to add a condition that looks for some solution to the scale of this particular building. She supports staff's recommendation that 10-12 parking spaces be set aside for this park area. The joint access with the neighboring hotel needs to be a part of this application and agreement with the City due to traffic conflict.

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

Discussion followed between Council and staff regarding access from the parking lot to the river and acquiring a dock. Currently there is a foot path to the river; permitting would be required to acquire a dock.

**Councilor Caltabiano made a motion, seconded by Councilor Feury to approve WPUD 22-10, the Finding of Facts in the staff report and the 16 conditions of approval as recommended by the Whitefish Planning Board unanimously on May 19, 2022.**

**Councilor Qunell made a motion, seconded by Councilor Norton to amend condition #5 to require a minimum of twelve (12) reverse angle parking spaces on the west side of the parking lot must be dedicated and signed for public use. The motion carried 5-1, Councilor Caltabiano in opposition.**

**Councilor Norton made a motion, seconded by Councilor Sweeney to add condition #17, the developer must pursue with all due diligence enacting the street, sidewalk, and boulevard**

**improvements identified in the Highway 93 South Corridor Plan. The motion carried 5-1, Councilor Caltabiano in opposition.**

Councilor Feury stated he has served on the Real Estate Committee and having been involved with bike paths, this piece of property has been one the City has wanted to own for decades. There is a very clear public benefit here. We have wanted to obtain this piece of property for access to the river and to have access to be able to maintain the sewer line along there.

**The original motion to approve carried.**

**Deputy Mayor Sweeney recessed at 9:30 and reconvened at 9:36 pm.**

**Deputy Mayor Sweeney addressed Justine from Fish Wildlife and Parks to give an update on the bear activity.**

Justine Vallieres is FWP's bear and mountain lion conflict specialist for this area. She covers Eureka, Whitefish, Columbia Falls, Marias Pass and in the North Fork. She knows there has been a lot of push back on the bear resistant containers in regard to some people saying there is not a bear problem. She has been putting in a lot of hours lately and reported it is very much a problem. Since May 1<sup>st</sup> she has had 191 conflict calls in her area. Today she hit 99 calls from Whitefish alone since May 1<sup>st</sup>. Black bears getting into garbage, bird feeders, unafraid and habituated. She wanted to take the time to thank Whitefish for going forward with the bear resistant containers. There still will be the calls, and the conflicts but she is hoping this will mitigate the conflicts.

- c) [Resolution No. 22-12](#); A Resolution adopting fees for solid waste disposal services (p.173)

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

Deputy Mayor Sweeney opened the Public Hearing. 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 Norton to approve [Resolution No. 22-12](#); A Resolution adopting fees for solid waste disposal services. The motion carried on a 4-1 vote, Councilor Caltabiano voting in opposition.**

- d) [Consideration](#) of approving City Manager's proposed budget as the FY23 Preliminary Budget and setting final Public Hearing on the Capital Improvement Project and FY23 Final Budget for August 15, 2022 (p.182)

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

Deputy Mayor Sweeney opened the Public Hearing. There being no 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, seconded by Councilor Norton to approve the FY23 Preliminary Budget, setting the final Public Hearing on the Capital Improvement Project and FY23 Final Budget for August 15, 2022. The motion carried.**

7) COMMUNICATIONS FROM CITY ATTORNEY

- a) [Resolution No. 22-13](#); A Resolution approving a Service Agreement and Memorandum of Understanding between the City of Whitefish and the Whitefish Community Library Board of Trustees (p.305)

City Attorney Jacobs presented her staff report that is provided in the packet on the website.

**Councilor Caltabiano made a motion, seconded by Councilor Norton to approve the Service Agreement and Memorandum of Understanding between the City of Whitefish and the Whitefish Community Library Board of Trustees. The motion carried.**

8) COMMUNICATIONS FROM CITY MANAGER

- a) [Written report](#) enclosed with the packet. Questions from Mayor and Council? (p.314)

None

- b) Other items arising between June 15th through June 20<sup>th</sup>

City Manager reminded Council and the public; City Hall will be closed July 4th for Independence Day. The City Council meeting will be held Tuesday, July 5<sup>th</sup>. The Refresh 2022 Whitefish Strategic Housing Plan Update Process is scheduled for Monday, June 27, 2022, from 2pm to 5pm in the Council Chambers.

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

Council Comments

Councilor Davis would like a follow up at some point on the City Council and Committee Rules and Procedures. Councilor Norton would like to see an ethics policy revision and education for volunteers and staff. She would like to see and address as some point a succession planning, consider staff housing and emergency housing, a protection board for the river, traffic engineering to be done in house, and adding Juneteenth as a holiday starting in 2023. **Councilor Norton made a motion, seconded by Deputy Mayor Sweeney to propose Juneteenth as a paid holiday. The motion carried.**

Councilor Feury stated the lake is full of debris and encourages folks to be careful and use their personal floatation devices when paddleboarding.

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 10:17 p.m.

*/s/Francis J. Sweeney*

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Deputy Mayor Sweeney

Attest:

*/s/Michelle Howke*

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Michelle Howke, Whitefish City Clerk