

WHITEFISH CITY COUNCIL

July 6, 2021

7:10 P.M.

'Hybrid'

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Hennen, Davis, Sweeney, and Norton. 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 Dial, Fire Chief Page and Planner II Osendorf. Approximately 17 people were in the audience, and one attending via Webex.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Toby Scott 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)

Ed Doctor, 2279 Cedar Lane, owner of Montana Tap House, spoke towards employee housing. The business owners and community members are making a lot of money. They have never been this busy. It is hard to get a cheeseburger in this town. He is not getting any applications and he does not think it is the unemployment. The workers have nowhere to live. He thinks the City needs to look into public/private partnership for employee housing. He says it will not be easy, but it is doable. He is willing to do anything to help make it happen.

Toby Scott, 1478 Barkley Lane, provided a letter to the Council that is appended to the packet on the website, regarding affordable housing. He proposes a portion of the COVID relief money go towards establishing affordable housing in Whitefish. The housing plan should include the City purchasing land and develop the property for modular type of housing. The city should work with industry service employers to create a qualified criteria for renters and a term rental plan. He requests the City Council appoint a committee to start the process. The employers cannot do this alone.

David Martin, 816 Texas Avenue, spoke towards an event that was held at Montana Tap House on June 26th. He complained of the loud music that was playing and mentioned the decibel measure he collected from a phone application. He was informed there is no noise ordinance until 10:00 pm. He did research and found a noise ordinance in Billings; residential day max 65db (decibel); residential night, 55db; commercial day, 80db; commercial night, 60db. He thinks Whitefish Police need something in their back pocket for when a business is running roughshod over the residential community that is adjacent.

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 21, 2021, Regular Session (p.14)

b) Consideration of a request from Jamee Cole for a Final Plat for JLC #3 for a 2-lot minor waiver subdivision located at 743 Aspen Grove Street and 434 Texas Avenue (WFP 21-01) (p.22)

Councilor Norton had a correction to the June 21st regular session minutes on page 2, first paragraph under item 6a), first line, 'report is provided fin the packet', and on page 8, last paragraph 'non-complaint

short-term rentals to ~~\$\$\$50~~\$500 per night'. **Councilor Norton made a motion, seconded by Councilor Sweeney to approve the Consent Agenda as corrected. 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) **Consideration of a request from Wolf Auto Group for a Conditional Use Permit to operate a car dealership, located at 6331 Highway 93 South, zoned WB-2 (Secondary Business District) (WCUP 21-10) (p.40)**

Planner II Tara Osendorf presented her staff report that is provided in the packet on the website. Council had questions regarding Condition #7 and the language provided as sufficient landscaping, and questions regarding future use of the adjacent property.

Mayor Muhlfeld opened the Public Hearing.

Brad Wolf, 6331 Hwy 93 S., owner stated their biggest concern is the building. It has sat vacant for the last four years and is deteriorating. In the last couple of weeks, the lawn is now mowed, the sprinklers are back on, and grass is greening up. They are excited to get started in the area. They have a good service and product to offer, along with providing an excellent customer experience and will cater to the community and local folks. They have to be able to get income generated. If they choose to develop further, they will hit all the guidelines required.

Discussion followed between Council and the applicant regarding landscape on the eastern property line. Mr. Wolf stated he has concerns with the timing of getting landscape work done and did not know if they would be opposed to a 20ft setback for landscaping on the east side of the property.

Phil Wolf, applicant, stated he thinks they exceed their partners up and down the street considerably with regards to landscaping. The east side is currently grassland now, and he does not see any purpose of a buffer. With their limited use, they can improve the footprint considerably.

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

Councilor Hennen made a motion, seconded by Councilor Qunell to approve the request from Wolf Auto Group for a Conditional Use Permit to operate a car dealership located at 6331 US Highway 93 S., zoned WB-2 (Secondary Business District) (WCUP 21-10).

Councilor Qunell made a motion, seconded by Councilor Feury to strike Condition #7 in its current form. Councilor Qunell stated it does not make very good policy. What is sufficient? Discussion followed between Council regarding the need for some landscaping between the commercial property and residential property. **Councilor Qunell withdrew his motion to strike Condition #7, Councilor Feury who seconded agreed.**

Councilor Qunell made a motion to amend Condition #7, seconded by Councilor Norton to state landscaping plans will be submitted for the eastern side of the property that is approved by staff that provides adequate buffering. The motion carried.

The original motion to approve as amended carried.

- b) **Res No. 21- ; A Resolution discontinuing, abandoning, and vacating an improved public alley located between Lots 1, 2, 3, 4, and 5 of Block 45 and Lot 1 of South Central Subdivision (p.77)**

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

Discussion followed between Council and staff. This block is one of two blocks that have a T-alley in the downtown area. Staff is not sure this T-alley is necessary for proper ingress and egress. Staff is

concerned with pedestrian issues and traffic congestion and would want to condition any approval on an easement that would prevent any structures be placed on top of the sewer main.

Mayor Muhlfeld opened the Public Hearing.

Will McDonald, 180 Fonner Road, applicants representative, stated their big issue is pedestrian safety and traffic flow. They want to try to create a streetscape experience. They have not gone into design yet. If approved, it would function and operate just like a regular alleyway from the optic standpoint. The applicants want to improve the alleyway, and the usage. If the resolution is approved, the control and ownership of the alley would go to the adjacent properties. They cannot improve the alley unless they have control of it. The abandonment of the alleyway is the critical component to the design. The alley would remain open until something was constructed on Lots 1, 2, and 3 to allow ingress and egress to the existing parking lot.

Dave Kauffman, 217 Central Avenue, is interested in the portion of the alley that is directly behind the phone company building, for a single parking spot. He thinks a street scape or street experience is cosmetically a more enjoyable experience and a great idea. He does not think there would be downside to closing the alley to create a pedestrian area.

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

Councilor Feury made a motion, seconded by Councilor Qunell to approve [Res No. 21-22](#); A Resolution discontinuing, abandoning, and vacating an improved public alley located between Lots 1, 2, 3, 4, and 5 of Block 45 and Lot 1 of South Central Subdivision. Councilor Feury stated he does not think that alley functions today. People access that alley from the parking lot by driving down the sidewalk and then they turn out onto Spokane. It is dangerous as it is now given the traffic volumes we see at that corner. Long-term that alley is going to function even less than it functions today. He does not have any problem with it. Councilor Norton stated she is going to vote against it. Councilor Feury made really good points about the safety. She thinks the north – south alley needs an outlets. Councilor Davis is also going to vote against the resolution. He thinks the City giving away community property is tricky business. If pedestrian safety is the issue, it could potentially be solved a different way. He would feel better if the applicant came to the City with a proposal for something like that. Councilor Qunell thinks it is the City’s responsibility to look out for pedestrian safety. Mayor Muhlfeld understands the concerns with the existing condition of the alley and the intent of the concepts that were heard. He thinks this is premature. He does not take very lightly donating public land to a private developer, though he can understand it could be a good opportunity for a public private partnership that improves the downtown and addresses current deficiencies.

The motion to approve failed.

- c) **[Res No. 21-22](#); A Resolution establishing an increase in the public skate and ice skate fee schedule (p.85)**

Parks and Recreation Director Maria Butts presented her staff report that is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing

Greg Harms, 117 Vista Drive, Manager of the Stumptown Ice Den stated their demographic has changed a lot especially since during the holiday periods. He stated approximately 60-70% are from out of town during holiday weekends. Locals will come in but avoid the busiest times which are the weekends and holidays. Councilor Qunell stated there are so few perks for living here full time. He suggested the increased rates for those who are not local community members.

Giusseppe Caltabiano, 2075 Lion Mountain Loop, stated he agrees with Councilor Qunell's idea. Residents live, pay, and enjoy the beauty of our town. It is very normal for non-residents to pay a premium to enjoy the facilities that all of us pay for year-round. He would invite Council to consider a plan of differentiation between residents and non-residents.

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 approve Resolution No. 21-22, establishing an increase in public skate and ice skate rental fee schedule.

Councilor Qunell made a motion, seconded by Councilor Norton to amend the fee schedule to add a resident fee to remain at \$7 for admission, and \$3 for skate rental for November – February, weekends, and holiday. The motion carried.

The original motion to approve carried.

- d) **Res No. 21-23; A Resolution submitting to the qualified electors of the City of Whitefish, Montana the question of whether, to approve the existing 3% Resort Tax for an additional twenty-year term, thereby extending the expiration date to January 31, 2045, with the resulting Resort Tax revenues to be used starting February 1, 2025, as follows: (i) 25% for property tax relief; (ii) 58% for the repair, maintenance, and improvement of streets, storm sewers, all underground utilities, sidewalks, curbs and gutters; (iii) 10% for improvements and maintenance of bicycle and pedestrian paths and other park acquisitions, improvements, and equipment; (iv) 2% for the maintenance and replacement of existing improvements of the Whitefish Trail with any amounts not expended within five fiscal years available for the maintenance of city bicycle and pedestrian paths; and (v) 5% for merchants' cost and administration (p.91)**

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

Councilor Norton asked and Manager Smith stated the Whitefish Trail is outside city limits. The City of Whitefish worked with Whitefish Legacy Partners, along with Michael Goguen's significant donation. The Whitefish Trails has been funded through philanthropy and they rely on donations and fundraising activities to support the continued development of the trail and also to maintain the trail. The City does not financial contribute to the Whitefish Trail at this time. Right now, there is no true city financial commitment to the trail. The trail does bring in a significant amount of visitation and results in additional resort tax revenue that is collected. In the future, should the Whitefish Trail maintenance ever revert to the City this would be the funding source to have the City maintain it. A trail that attracts visitors and puts burden on the city would thus be paid for through the resort tax.

Councilor Norton asked and Manager Smith state we have a significant backlog of our bike/ped path in town. The Park Board does have priorities for what they want to see done in parks and for expanding the trail system. With the proposed increase we will see a total annual revenue of about \$450,000 that could go to parks, park improvements, and bike path maintenance. It is a priority that is recommended by the Park Board and the Resort Tax Committee.

Mayor Muhlfeld opened the Public Hearing.

Giusseppe Caltabiano, 2075 Lion Mountain Loop Road, also a partner with NxGen Payment Services stated none of us could have guessed the growth we have had in the last year. The tourists come here, enjoy our town, pay the resort tax and leave. We suffer the same traffic, but the tourists do not perceive it as traffic. We pay the 3% and we do not see much benefit if we live here without owning property. How many renters live in Whitefish who do not own property and are not benefiting of the rebate, while property owners are benefiting? Visa and MasterCard have changed their regulations the last two years

to allow merchants to turn around the merchant fees to the cardholder. So that would wipe out the argument we as a city controlling money income so that they can afford the merchant fees.

Jim Welch stated Councilor Feury remembers that we basically bought the vote to get this thing passed in the first place by proposing the 25% property tax reduction. People who have been here forever know that they like to stay here. They are the renters. He does not think he would vote for it if he was a renter. We all knew some Whitefish was going to get discovered. There is no real rush for getting this on the ballot. We need to take a pause and look outside the box. This the third shot at the cannon and is basically the same thing we proposed in the beginning. We fix the streets, lower the property taxes, and give the 5% to bike paths. Maybe it is a time to budget for the growth. There is an appreciation factor here. When you are budgeting in a business, you look at the revenue and the revenue is going to drive the tax. Go out there and pay a premium for a piece of property. If you want to buy votes on the ballot, tell them you are going to do something about the young people who want to live here and raise their families here.

Heidi Van Everen, Whitefish Legacy Partners, 4 Pine Avenue, commends the Council and thanked them for considering the Resort Tax renewal. It is great we are getting ahead of things, and she is thankful for all the success that we have had in the past. She believes the 3% to support maintenance and improvements is critical to our community. She greatly appreciates Council thinking about the Whitefish Trails specifically in addition to the bike paths that we have. It is important we think ahead about maintenance and how we manage that. There are not many communities that are thinking in the way that Council is. It is something we can be proud of. The Whitefish Trail is a huge income generator for this community. She appreciates the Council is recognizing that and embracing it and thinking out as far as 2045. That is not an easy task.

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

Mayor Muhlfeld called for at recess at 9:01 and reconvened at 9:09 pm.

Discussion followed between Council and staff regarding allocation towards affordable housing. Affordable housing is a problem, but this allocation if approved by the voters, will not generate revenue until 2024. If the extension and reallocation is approved as proposed, we are guaranteed until 2045. Once a plan is created for affordable housing, the City can go back to the voters and ask for reallocation of the funds.

Councilor Sweeney made a motion, seconded by Councilor Norton to approve [Res No. 21-23](#); A Resolution submitting to the qualified electors of the City of Whitefish, Montana the question of whether, to approve the existing 3% Resort Tax for an additional twenty-year term, including the proposed language To continue property tax relief, improve and maintain streets including related utility infrastructure, and improve and maintain parks, paths and trails shall the existing 3% resort tax be extended for an additional twenty-year term. Councilor Sweeney stated we need to move forward on this in its current form. Councilor Davis stated the Resort Tax has done a lot of good things in our community. The Whitefish Trail system conveys significant benefit to the citizens of Whitefish. Getting this passed and renewed for another twenty years is what this community needs. He also agrees that this is probably a very good source for funding for affordable housing, but he struggles with the fact that we do not have a plan of how that fund will be used.

The motion to approve carried.

- e) ~~Consideration of a request from Karen Jean Bunker for a preliminary plat for a 4 lot subdivision called Fulkerson Homestead, located at the southwest corner of Sawtooth Drive and O'Brien Avenue (WPP 21-01)~~ **POSTPONED TO JULY 19, 2021**

- f) ~~Consideration of a request from Dan Nelson for a preliminary plat for a 4 lot subdivision called 736 Wisconsin Avenue, located at 736 Wisconsin Avenue (WPP 21-02)~~ **POSTPONED TO JULY 19, 2021**

7) COMMUNICATIONS FROM CITY MANAGER

- a) **Written** report enclosed with the packet. Questions from Mayor and Council? (p.100)
- b) **Other items arising between June 30th through July 6th**

Councilor Davis asked and Manager Smith stated the Municipal Code does address disturbing the peace. Staff can look into Billings ordinance. Manager Smith reported that the Public Works Department has identified two different grant opportunities for water, sewer, and broadband improvements. The first is the minimum allocation grant program, (\$530,000 match) which is based on our direct allocation and can be used to match the competitive grant application. MDT might have found some funds to overlay Spokane Avenue from Second Street to Thirteenth Street. The water main needs to be replaced. Director Workman brought forward the idea to apply for the grant for that project that would replace our cast iron water mains. We have currently in the FY22 budget \$1million for cast iron water main replacement. The \$530,000 match is already included in the budget. There would be no cost for us being able to match it and it would not touch our ARPA funds that we have received that we have talked about using for housing. This will get our water main replaced where it is bad, and MDT can overlay it to get us through the next five to seven years as we wait for the downtown highway study to complete its process.

8) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

Councilor Norton attended a housewarming for a disabled veteran. The house was mortgage free for the whole family. Council discussed their experience with the new firework ordinance. Chief Dial stated it seem to have worked. They were not as busy as the surrounding towns.

9) ADJOURNMENT

Mayor Muhlfeld adjourned the meeting at 9:34 p.m.

/s/John Muhlfeld
Mayor Muhlfeld

Attest:

/s/Michelle Howke
Michelle Howke, Whitefish City Clerk