

WHITEFISH CITY COUNCIL

August 9, 2021

7:10 P.M.

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, Police Chief Dial and Planner II Osendorf. Approximately 14 people were in the audience and 3 were in attendance by Webex.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Marcia Sheffels 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)

Toby Scott, 1478 Barkley Lane, provided a letter that is appended to the packet. He updated the Council on the private effort to bring affordable rental housing to Whitefish. A meeting was held at the Montana Tap House with about 70 people attending. He and his associates next step is to create a business plan and financial statement for the formation of a business entity that will allow them to purchase land and start creating units for workers. They will need help from the City for zone changes, permitting and impact fees. He is asking for a moratorium be placed on advertising Whitefish for more visitors.

Dick Zoellner, 1365 Voerman Road, stated there are some active nests of Bald Eagles in town. The Fish Wildlife and Parks has a management plan, and he thinks it would be a great thing for the City refer to prior to development.

Kelly Talsma, 361 Shady River Lane, presented to the Council a chart she created when the Wastewater Treatment Plant (WWTP) emitted an odor. The chart is appended to the packet on the website. She and Chris Wilcomb met with Manager Smith on July 12th. Staff acknowledge the smell is impacting their quality of life and has been for quite some time. They have been dealing with this for years and they are frustrated. They understand the new treatment plant should be up and running by mid-August and the ponds will be treated with lime to help mitigate the smell. Staff told them that covering the ponds would be a guaranteed solution to mitigate the odor, although expensive. Assistant Public Works Director DeZort has kept the lines of communication open and has given monthly updates. The neighbors ask that the Council consider odor pollution as a priority as well and look at a solution. She has four requests; 1) She would like a tour of the new plant, 2) That all solutions are being investigated to mitigate the smell including covering the ponds, 3) A complaint policy or procedure on this issue, provide a single contact or a Facebook page, or hotline that is advertised in the paper, on the trail and to the neighbors so data is being collected and recorded, 4) All solutions are being investigated to mitigate the smell. They are citizens asking for a resolution of this prolonged issue.

Giuseppe Caltabiano, 2075 Lion Mountain Loop Road, as a Commissioner of the Airport Board, stated when they were evaluating their expansion, they studied Great Falls, Helena, and Bozeman, but then realized they were looking at the wrong examples. They started visiting Jackson Hole, Wyoming, Sun Valley and Bellingham. He has been to Austin Texas, Ketchum Idaho, Jackson Wyoming and spoken to developers in Barkley California. They all have faced or are facing workforce housing challenges. He

suggests 1) A Master Plan, and 2) Cross educate with cities who have been through this before us. We can learn from their mistakes and successes.

Mark Owens, 329 Shady River Lane, spoke in regard to the odor from the Wastewater Treatment Plant. He knows Director Workman is trying to keep the neighbors updated, but it is general information, and it is difficult to anticipate what is going to happen day to day. The neighbors are in line with the fact that we need to move to the new system and get it up and going. They want to be informed with better communications with the City in terms of what is happening. Mark has seven requests; 1) Tour of new facility; 2) How does the City and/or contractor measure acceptable or unacceptable levels of smell?; 3) The City to publish the website address for the smell log data on specific complaints; 4) City escalation contact info; 5) Mitigation plan during transition to the new system; 6) Detailed schedule of transition with “high smell risk” tasks; 7) Contractual liability over time on containment of smell during the transition or during ongoing operation. His email is appended to the packet on the website.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

Councilor Norton reported she attended the meeting at the Montana Tap House regarding workforce housing private/public partnership. She stated it was inspiring to see so many interested people. The housing issue is now reverberating out to the point where it is affecting our livability. She also attended the Whitefish Housing Authority meeting and talked about ideas in town that might be able to add housing. Housing Authority Executive Director Collins met with Flathead County regarding the funding they have received.

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 July 19, 2021, Regular Session (p.176)**
- b) **Ordinance No. 21-08; An Ordinance rezoning approximately 3 acres of land located at 306, 312, 328, 334, 336, 406, 418, 426, 428, 436, 442, 506, 514, 518, 532, 534, 558, and 564 Kalispell Avenue, Whitefish and 631 East 4th and 620 East 6th Street in Section 36, Township 31 North, Range 22 West, P.M.M., Flathead County, Montana, from WR-4 (High Density Multi-Family Residential District) to WR-2 (Two-Family Residential District) and adopting findings with respect to such rezone (WZC 21-01) (Second Reading) (p.183)**
- c) **Ordinance No. 21-10; An Emergency Ordinance placing Stage II Fire Restriction within City limits, providing an exception, and waiving the second reading, with an immediate effective date (Only Reading) (p.186)**

Councilor Norton had correction to the July 19, 2021, minutes: page 2, Public Hearing, Will McDonald, applicant representative, stated this; page 5, 6th paragraph, Manager Smith, Chief Dial and Chief Page reported. **Councilor Sweeney made a motion, seconded by Councilor Feury 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 Project Whitefish Kids for a sign variance for Smith Fields Sports Complex located at 1701 Hospital Way (WZV 21-05) (p.191)**

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

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

Councilor Feury made a motion, seconded by Councilor Qunell to approve WZV 21-05 a request from Project Whitefish Kids for a sign variance for Smith Fields Sports Complex located at 1701 Hospital Way. The motion carried.

- b) **Consideration of a request from Maureen Casey for a Conditional Use Permit for a guest house located at 350 Armory Road, zoned WCR (Country Residential District) (WCUP 21-14) (p.205)**

Planner II Osendorf presented her staff report that is provided in the packet on the website.

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

Councilor Qunell made a motion, seconded by Councilor Sweeney to approve WCUP 21-14, the Findings of Fact in the staff report and the eight conditions of approval, as recommended by the Whitefish Planning Board on July 15, 2021. The motion carried.

- c) **Ordinance No. 21-11; An Ordinance amending Section 1A, Whitefish Legacy Homes Program, 11-2S, WPUD Planned Unit Development District, and 12-4-31, Affordable Housing, of Title 12, Subdivision Regulations, of the Whitefish City Code to modify the formerly mandatory inclusionary zoning program to a voluntary program with incentive (First Reading) (WZTA 21-01) (p.238)**

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

Mayor Muhlfeld opened the Public Hearing,

Giuseppe Caltabiano, 2075 Lion Mountain Loop, stated we are now looking at a proposal that calls for 10% to qualify. He suggests a tiered system such as 10%, 30%, 60% with different incentives. This may push builders to do 60% and still make money.

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 Sweeney to adopt Ordinance No. 21-11; An Ordinance amending Section 1A, Whitefish Legacy Homes Program, 11-2S, WPUD Planned Unit Development District, and 12-4-31, Affordable Housing, of Title 12, Subdivision Regulations, of the Whitefish City Code to modify the formerly mandatory inclusionary zoning program to a voluntary program with incentive (First Reading). Councilor Feury stated we are not rewriting this. We are taking two years of work that would have been a mandatory program and turning it into a voluntary program. This allows us to make sure that we don't lose something that might walk through the door tomorrow.

Councilor Sweeney stated we have looked outside; and continue to look outside. One of the goals as a group is to come up with a better program. This is a step we have to take otherwise we have nothing to offer. **The motion carried.**

7) COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

- a) **Consideration of a request from Eris Huemer and William Winans for a Whitefish Lake and Lakeshore Variance to place two docks at a property located in the county at 434 Pharma Road (WLV 21-W43) (p.299)**

Planner II Osendorf presented her staff report that is provided in the packet on the website.

Councilor Feury made a motion, seconded by Councilor Sweeney to deny WLV 21-W43, the application does not meet all four criteria. The motion to deny carried.

8) COMMUNICATIONS FROM CITY MANAGER

a) Written report enclosed with the packet. Questions from Mayor and Council? (p.323)

None

b) Other items arising between July 28th through August 2nd

Manager Smith reported she sent a letter to downtown businesses to inform them of what the City is doing with garbage cans downtown, including adding three containers, with daily pickups up to twice a day. The letter requests businesses that provide take out containers to remind customers to break down the containers as much as possible and take a few extra steps to find an empty garbage can. The letter also reminds businesses it is their responsibility to maintain their sidewalks. The City is working with the Heart of Whitefish and a couple of companies who have offered their services to power wash sidewalks. Businesses can participate in the program, which will allow the City to keep track of businesses maintaining their sidewalks. The City could force cleaning of the sidewalks for those businesses who do not participate in the program.

Manager Smith also brought to the Council's attention, with the Stage II Fire Restriction in effect private landowners are closing their property for public recreation use. DNRC is also considering closing their property as well. She, Chief Page and Whitefish Legacy Partners will meet to talk about the need to close down the Whitefish Trail as a risk management.

Manager Smith reported the taxable value came in at 17.49% increase over last year. A total of about \$7 million in value increase, only \$2 million was new taxable property. That shows you the growth and value of current homes. The new taxable value of about \$2 million could generate about \$170,000 a year. The 30 mills that we are not going to levy, we have about \$1.5 million that we legally can levy that we are not. We are continuing to save our taxpayers by keeping our budget in line and minimizing the increases.

Manager Smith provided a copy of a letter from Assistant Public Works Director DeZort that was mailed to neighboring residents of the Wastewater Treatment Plant. Staff met with residents in that area to discuss efforts in mitigating the transition of the plant to the new facility. The biggest challenge is that adjustments were made to lagoons that are struggling to maintain a good sense of smell, in order to add new equipment. The blowers were turned off which have increased odors. Staff is also seeing time fluctuations in smells. Before starting the Wastewater Treatment Plant project, it was decided that dredging the lagoons was probably not something that needed to be done right away at a cost to rate payers. As it has taken another five years to get to the development of the new Wastewater Treatment Plant, that first lagoon is heavy and has quit a bit of sludge. Director Workman will reach out to Mark Owens when he returns.

Currently there are about 301 cases in the Flathead Valley. Manager Smith reminded the Council and the citizens that the City can't do much from a legislative standpoint. The Montana State Legislature removed Municipalities the ability to require a mask. Staff is recommends following the CDC guidelines

but at this point Manager Smith cannot trespass any individuals from City Hall or any publicly paid for facilities for not complying with any kind of mask recommendations.

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

Councilor Comments

Councilor Norton reported the CDC came out asking vaccinated people to begin to mask in congregated settings. Even vaccinated people can be carriers of the delta variant. She would appreciate the vaccinated community to begin masking to protect our community. She would like the Council to take is seriously and do messaging for the community. She also responded to Dick Zoellner's comments regarding Bald Eagles at the beginning of the meeting. She mentioned that we don't talk about animals during the planning stages of development. She would like that to be integrated in our planning. Directory Taylor stated through the planning process, Fish Wildlife and Parks is notified with every public agency notification when there is a project. She also mentioned the Farmers Market has some conflicts with the Library and also the O'Shaughnessy Center regarding parking. She thinks we should look at these kinds of things for next year. Manager Smith has met with the O'Shaughnessy, and it is something staff will address with the Farmers Market next year. Councilor Norton asked about the request from the Lupfer Avenue neighborhood and if staff has made any decisions about restricting parking. Manager Smith stated staff is not changing the signage since it is already signed, and they are monitoring it for RV's utilizing the parking.

Councilor Sweeney stated it would be helpful to the private landowners who allow recreation, to get messaging out to our citizens of the risks we face with this heat. He would like to follow up with Health Director Russell and the Commissioners if they have reached out to our Governor to move him on this issue pertaining to the pandemic.

Councilor Feury responded to a letter in the Daily Interlake encouraging everyone to come to the City Council meeting on August 16th regarding the 1% the City is collecting and spending on tourism and promotion. He stated that is a voluntary program that the members of the Whitefish Convention and Visitors Bureau (WCVB) collect. The City does not spend any Resort Tax dollars on tourism or marketing. The 1% is not a city fund. He also reported at the last Legacy Lands Advisory Committee meeting, DNRC is proposing 1.7 miles of roadway on the East Smith Lake Project. The 1.7 miles goes through part of the public recreational use easement that is part of the Close The Loop Project that Whitefish Legacy Partners is trying to secure an easement on, that we collectively paid \$75,000 for the MEPA process and it took over 2 years to do. The 1.7 miles of road will provide access to three parcels of property; two of which are currently landlocked and have no legal access; and provide a secondary access to a piece of property that will then probably be subdivided. He asks for support from the Council to comment as a City. The Council showed united support.

Councilor Qunell responded to a written comment that the City approved the music festival of 20,000 plus people. The City did not approve it, the property is in the county. He reiterated Councilor Feury's comments from a year ago, we can't put a gate at the entrance of town and prevent people from coming. We are somewhat a victim of our own success. This Council has worked hard to make this town a destination resort and we have done a pretty good job with it. That is why people come here. The pandemic hyper accelerated people coming here. He would like to consider Toby Scotts suggestion to suspend advertising Whitefish for a year. He doesn't see why we need to advertise. He also mentioned that the Montana School Superintendents met, their official statement is that masks are a choice. Individual School Boards could mandate masks.

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Mayor Muhlfeld has read about other communities in Colorado and Utah that are actually redirecting the public portion of their marketing budgets to affordable housing and other growth-related efforts. The Council approves the WCVB's annual budget, and he asked Manager Smith what those funds be used for? Manager Smith will research that and have it available for the August 16th FY22 Budget Public Hearing.

Mayor Muhlfeld would also like to have a discussion at the next meeting; 1) A concept of a moratorium for Short-Term Rentals (STR), 2) whether we cap the number of STRs that are allowed by zoning district, and 3) the recommendation from the Sustainable Tourism Management Plan Committee to increase the minimum stay to 90 days in the definition for Short-Term Rental. Manager Smith stated it is scheduled as a work session on September 7th.

10) ADJOURNMENT

Mayor Muhlfeld adjourned the meeting at 9:04 p.m.

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk