

WHITEFISH CITY COUNCIL
August 16, 2021
SPECIAL SESSION AT 5:45 PM

1. Call to Order

The meeting was held in-person in the Council Conference Room. Mayor Muhlfeld called the meeting to order. Councilors present were Sweeney, Qunell, Davis, Hennen and Norton. Councilor Feury were absent. Staff present were Manager Smith, City Clerk Howke.

2. Interview

City Council interviewed Sara Boilen for the Whitefish Housing Authority.

3. Public Comment

None

4. Appointments

Mayor Muhlfeld appointed Sara Boilen to the Whitefish Housing Authority to complete the term ending 12/31/2025. The motion carried on a 4-1 vote, Councilor Davis voting in opposition.

5. Adjourn

Mayor Muhlfeld adjourned the meeting and opened the Work Session at 6:00 p.m.

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk

WHITEFISH CITY COUNCIL

August 16, 2021

7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Hennen, Davis, Sweeney, and Norton. Councilor Feury 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, Interim Police Chief Kelch, Fire Chief Page, and Senior Planner Compton-Ring. Approximately 16 people were in the audience and 3 people attended via Webex.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Phil Boland 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)

Nathan Dugan, 937 Kalispell Avenue, spoke towards affordable housing, specifically accessory dwelling units (ADUs). He has provided a letter that is appended to the packet on the website. The letter addresses flaws in the ADU code that prevent significant ADU construction in Whitefish. The letter also included a 20-page document that he created summarizing the book *Backdoor Revolution-A Definitive Guide to ADU Development*. He mentioned there are a few things to make sure that the new code does not contain; 1) Owner-occupancy requirements; 2) Off-street parking requirements; 3) Conditional use – A preferable permit process is called ‘by right’, ‘straight to permit’, ‘administrative permit’, or ‘ministerial permit’, which ensures transparency and predictability. ADU’s are developed by homeowners who are not familiar with the development process with the city and development fees may introduce too much upfront expense or too much risk. It should be easy and upfront to be able to construct an ADU. He thinks it is imperative to get this right.

Nancy Schuber, 110 Bay Point Drive, is a concerned citizen that would like Council take action to discontinue the 1% Tourism Promotion Assessment (TPA). The purpose of the TPA is to improve business in Whitefish during the shoulder and winter seasons and maintain a strong summer season. She states the purpose of the TPA is no longer valid. Businesses are short staffed and must close at critical times. The TPA is optional, yet the receipts don’t state that or explain what it stands for. She urges the Council to review the need for the TPA. She provided options for further consideration; 1) place a one-year moratorium on the collection and spending of the TPA, review it a year out, and if re-instated remove restaurants from the TPA allowing residence an “out” from funding tourism promotion. It would still be on bed tax and rental cars; 2) by discontinuing the TPA and replacing it with an optional 1% affordable housing fee.

Brian Schott, 708 Lupfer Avenue, responded to Ms. Schuber’s comments. He is a member of the Whitefish Convention and Visitors Bureau and Vice Chair of the Whitefish Sustainable Tourism Management Plan Committee. There needs to be continued education about what tourism promotion means. There has been a tremendous shift in the media landscape. He is involved with public relations and media relations, so he deals with the media requests such as Good Morning America. Good Morning America approached the Whitefish Visitors and Convention Bureau (WCVB) in the spring. The WCVB told the producers they didn’t want them to come. The producers pushed back so the WCVB stated they would help craft the story. WCVB crafted a story to create a vision of Whitefish of responsible recreation and taking care of the place. We still do need to fill in the shoulder season a little bit. The occupancy rates will surprise you in terms of the number of beds that are being slept in during the slow months. We owe it to Whitefish businesspeople to create a year-round place where we don’t have to lay off workers

in the off season. He stated if we don't shape the image of Whitefish and tell our story, other people will do it for us and that is what they are concentrated on. The Friend of the Fish campaign honestly has been a tremendous success. We have visitors on the ground that are learning more about our community values and what we expect from visitors. There is a lot of misunderstandings about what we are doing as a town. Tourism is a big leg of this town; it is not the only leg, and we don't want it to be. There is a lot of work to be done. Let's keep working on it together.

Rhonda Fitzgerald, 412 Lupfer Avenue, stated she has been in the lodging business in Whitefish for 34 years and she operates a small inn. Fifteen years ago, she was involved in the formation of the WCVB and participated in the conversations around the tourism assessment. Many local businesses got together and made a business decision to band together to find ways to improve the economy in Whitefish during the lean off season months. Whitefish doesn't want to be a single-season gateway town that is hollowed out and abandoned the rest of the year. So as businesspeople, they wanted to find a way to have a more even customer base throughout the year to have year-round employees. The tourism assessment was created to stabilize our economy in the slow fall, winter, and spring months. Local businesses agreed on the voluntary assessment as the best method to generate the funds to help stabilize the economy in the slower months. It is a voluntary assessment. Nationally a hotel expects around a 70% occupancy as an annual average. In Whitefish the yearly average for hotel occupancy has for many years hovered between 50 - 55%. Which is operating at a significant handicap. The WCVB programs balance the economic and community sustainability while working hard to maintain the integrity of our town and the quality of life for local residents. If we are going to be a sustainable community, we need consistent year-round jobs to keep families employed. The WCVB does not promote summer travel. There are a lot of other people in the community that do, developers, realtors etc. It does not encourage out-of-state visitors to relocate in any way. There 130 members businesses of the WCVB and of those, 53 are collecting the TPA. It has been very successful in funding programs like the Friend of the Fish, the Crisis Communications in partnership with the City. They have a grant program for local community events. There was a small grant made for the Christmas decorations to expand around Depot Park. She reiterated if we don't control the story of who we are, other people are more than happy to from outside.

Mariah Joos, 716 Spruce Court, WCVB Chair, is a member of the Sustainable Tourism Management Plan Committee, citizen, and business owner. As a business owner and resident, she is feeling the same pressures as the rest of her neighbors. The tight housing market affects her ability to staff and run her business. As a consumer she is also frustrated with the number of people in town and how hard it is to patronize the rest of our local businesses. We feel inundated and invaded, oftentimes outnumbered. The situation we are in right now is not a single cause. When were our community leaders of decades past worked on ways to transition our economy away from timber and the railroad, could they have imagined a global pandemic? Or how Airbnb could upend our real estate market? Explore Whitefish is actively working on adapting to this new landscape. The board was an early supporter of the STMP, and the organization is growing from its original mission of destination marketing to destination stewardship. They have not advertised Whitefish in the summer since 2010. They actively encourage visitors to appreciate and respect our home. Moving forward they will continue to shift to stronger messages of land stewardship and low impact visitation. Just as we did not get here overnight this is not a single silver bullet that will fix the issue. She believes this is a situation where our community shines brightest. Through community involvement and decisions that prioritize the common good, we can be the community that lives to see the other side.

Michael Glunk, 1238 2nd Street and 35 Columbia Avenue, commented via Webex. His letter is included in the packet. He commented on affordable housing, garage apartments and ADUs. He has had a goal for many years to build a garage apartment in the back of his two properties. If there truly is a housing need, he personally feels like there is no reason for restricting the long-term rentals of garage apartments if you don't live in the primary residence. He believes the law should just be removed.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

Dylan Boyle, Whitefish Convention and Visitors Bureau Executive Director, stated when the Sustainable Tourism Management Plan was approved the WCVB was charged with a summer outreach campaign to visitors on the ground. The Be A Friend of the Fish Campaign was started. Some of campaign was paid for through a grant program; the Recreate Responsibly Grant the WCVB received from the Montana Office of Tourism and Business Development in Helena. This is another way to get the message out to more people with the majority of those users here on the ground. The booking pace for short term rentals is starting to taper off in September. A report of short-term booking is provided in the WCVB's weekly newsletter. Businesses have found this report to helpful to get an idea of the peaks and valleys, especially as we move into the shoulder season.

- 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 August 2, 2021, Regular Session (p.143)
 - b) [Ordinance No. 21-11](#); An Ordinance amending Section 1A, Whitefish Legacy Homes Program, 11-2S, WPUUD 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.149)

Councilor Sweeney made a motion, seconded by Councilor Hennen to approve the Consent Agenda as presented. 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 Eagle Enterprises, LLC for a Conditional Use Permit to three additions to the existing Chrysler-Service building and Chevrolet-Body Shop located at 6219 Highway 93 South, zoned WB-2 (Secondary Business District) (WCUP 21-12) (p.177)

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

Mayor Muhlfeld opened the Public Hearing.

Aaron Wallace, 265 Hawks Lake Lane, Montana Creative, is assisting on this project, reviewed the project. A new layout required by Chrysler/Jeep, they plan to enclose the Service Department drop-off canopy to allow for a warm environment to their customers; enclose the existing exterior showroom to provide more retail space; and expand between the two buildings to allow for office space lost with the expansion of the interior retail space. They do not support Condition #3 requirement them to improve the sidewalk, boulevard, and street trees along Shiloh Avenue. They worry about peoples safety with the eastern entrance to the property high level of usage.

Kevin Kaltschmidt, 150 West Emerald Drive, applicant, stated the reason for this application is to create a more functional space for their customers and staff and make a better visual appearance.

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 WCUP 21-12, the Findings of Fact in the staff report and the nine conditions of approval as recommended by the Whitefish Planning Board.

Discussion followed regarding Condition #3, the requirement to install frontage improvements along Shiloh Avenue from JP Road to the north property line. Improvements will include sidewalk, boulevard, and street trees. Director Workman stated this should have been addressed in the previous Conditional Use Permits for this property. The Public Works Department feels this is the time to make improvements to allow for pedestrian safety.

The motion to approve carried.

- b) [Ordinance No. 21-12](#); An Ordinance rezoning approximately 1.93 acres of land located at 1625 Highway 93 West in Section 35, Township 31 North, Range 22 West, P.M.,M., Flathead County, Montana, from County R-3 (One Family Residential) to WR-1 (One-Family Residential District) and adopting findings with respect to such rezones (First Reading) (WZC 21-02) (p.209)

Senior Planner Wendy Compton-Ring 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 considerations.

Councilor Hennen made a motion, seconded by Councilor Sweeney to adopt [Ordinance No. 21-12](#); An Ordinance rezoning approximately 1.93 acres of land located at 1625 Highway 93 West in Section 35, Township 31 North, Range 22 West, P.M.,M., Flathead County, Montana, from County R-3 (One Family Residential) to WR-1 (One-Family Residential District) and adopting findings with respect to such rezones (First Reading). The motion carried.

- c) [Resolution No. 21-24](#); A Resolution amending 2021 Fiscal Year annual budget to increase appropriations in two funds of the City (p.243)

City Manager Dana Smith presented her staff report that is provided in the packet on the website. The two budget amendments for Fiscal Year 2021 Budget were to the Tax Increment Fund in the amount of \$45,000 to provide for cost incurred during the fiscal year for the Baker Avenue Underpass Project; and the Solid Waste Fund in the amount of \$250,000 to provide for costs not included in the FY2021 Budget that are related to the transition of garbage billing back to the City.

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 Sweeney made a motion, seconded by Councilor Qunell to approve [Resolution No. 21-24](#); A Resolution amending 2021 Fiscal Year annual budget to increase appropriations in two funds of the City. The motion carried.

- d) [FY22 Budget](#), Tax Levy, and Assessments Public Hearing: (p.247)

City Manager Dana Smith presented the Fiscal Year 2022 Budget that is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing for agenda items 6di-xi. There being no public comment, Mayor Muhlfeld closed the Public Hearing and turned the matters over to the Council for their consideration.

- i) [Resolution No. 21-25](#); A Resolution accepting and approving the municipal budget for the City of Whitefish for the 2022 Fiscal Year Commencing July 1, 2021, in its final form (p.251) [Budget Changes Since Prelim FY2022](#) [FY2022 Final Budget](#)
- ii) [Resolution No. 21-26](#); A Resolution (1) budgeting property tax revenue, (2) determining the property tax mills to be levied on all taxable property within the corporate limits of the City

- of Whitefish, and (3) levying and assessing all special improvement assessments and other assessments on real estate within the Districts for the 2022 Fiscal Year (p.425)
- iii) [Resolution No. 21-27](#); A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Street Maintenance District to defray the costs of street improvements (p.428)
 - iv) [Resolution No. 21-28](#); A Resolution levying and assessing tax upon all real estate in Special Improvements Lighting District No. 1 in the City of Whitefish, Montana to defray the cost of improvements in said Special Improvement Lighting District (p.430)
 - v) [Resolution No. 21-29](#); A Resolution levying and assessing a tax upon all real estate in Special Improvement Lighting District No. 4 in the City of Whitefish, Montana, to defray the cost of improvements in said Special Improvement Lighting District (p.432)
 - vi) [Resolution No. 21-30](#); A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Parkland and Greenway Maintenance District (p.434)
 - vii) [Resolution No. 21-31](#); A Resolution levying and assessing a tax on each lot or parcel of land in the City lying within the boundaries of the City's Stormwater Improvement and Maintenance District (p.436)
 - viii) [Resolution No. 21-32](#); A Resolution levying and assessing a tax on each lot or parcel of land lying within the boundaries of Special Improvement District No. 166 (JP Road) to defray the cost of creation of said District and of the improvements therein (p.438)
 - ix) [Resolution No. 21-33](#); A Resolution levying and assessing a tax on each lot or parcel of land within the boundaries of Special Improvement District No. 167 (Downtown Parking Structure) to defray the cost of creation of said District and of the improvements therein (p.451)
 - x) [Resolution No. 21-34](#); A Resolution levying and assessing costs from certain properties within the City for the extermination and removal of noxious weeds pursuant to Title 4, Chapter 3, of the Whitefish City Code; and for the removal of ice, snow, slush, or other impediments pursuant to Title 7, Chapter 2, of the Whitefish City Code (p.457)
 - xi) [Resolution No. 21-35](#); A Resolution levying and assessing costs from certain properties within the City for the collection of utility service charges pursuant to Title 8, Chapter 1, of the Whitefish City Code (p.460)

Councilor Sweeney made a motion, seconded by Councilor Qunell to approve Resolution Nos. 21-25 thru No. 21-35, accepting, and approving the municipal budget for the City of Whitefish for the 2022 Fiscal Year Commencing July 1, 2021, the Tax Levy and Assessments. The motion carried.

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) [Resolution No. 21-36](#); A Resolution authorizing the transfer of approximately .03 acres of Whitefish Lookout Road right-of-way in exchange for the extension of an existing culvert (p.464)

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

Councilor Sweeney made a motion, seconded by Councilor Hennen to approve [Resolution No. 21-36](#); A Resolution authorizing the transfer of approximately .03 acres of Whitefish Lookout Road right-of-way in exchange for the extension of an existing culvert. The motion carried.

8) COMMUNICATIONS FROM FINANCE DIRECTOR

- a) [Review](#) and possible adoption for the FY2022 – FY 2026 Capital Improvement Program (p.473)

Finance Director Ben Dahlman presented the FY2022-FY2026 Capital Improvement Program that is provided in the packet on the website.

Councilor Qunell made a motion, seconded by Councilor Norton to adopt the FY2022 – FY2026 Capital Improvement Program. The motion carried.

9) COMMUNICATIONS FROM CITY MANAGER

- a) [Written](#) report enclosed with the packet. Questions from Mayor and Council? (p.498)

None

- b) Other items arising between August 11th through August 16th

City Manager Dana Smith reported the COVID-19 Task Force meeting is scheduled for August 19th at 5:30 to reconsider what kind of messaging if any is needed to be done to support our hospitals, businesses, and schools during this resurgence of COVID. She also reported the School District Board decided to require masks be worn for kindergarten through 6th grade. That appears to have some protests planned. Interim Police Chief Kelch and his team are prepared to ensure the safety of all parties and the protest remains peaceful.

The American Rescue Plan dollars were allocated to each town based on population for those that were not an entitlement. The town of Browning has ceased to exist as a town and was included in the allocation. With that the City will receive an additional \$3,186 that would have been Browning's allocation. The City of Livingston and their Council chose to take their portion and return it to a non-profit in Browning. Manager Smith asked the Council if they would be interested in the same. The Council supports the idea, and Manager Smith will research non-profits of Browning and report back to the Council.

10) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) [Letter](#) from Michael Glunk regarding garage apartment deed restriction (p.501)

Mayor Muhlfeld responded to Mr. Glunk, stating he took offense to his email. Council and staff are working on the issue and will continue to work on the issue, but it would be nice for constructive criticism and feedback from folks that visit and live here.

- b) [Letter](#) from Paulette Mormino regarding Eagle Lake project (p.503)

Councilor Davis asked and Planner Taylor stated when that project was initially approved, short-term rentals were permitted in the WB-2 zone. That zoning district allowed all types of stays, so subsequently Council directed staff to amend the WB-2 zone and remove short-term rentals. However, before that amendment the Eagle Lake project was approved with short-term rentals.

Council Comment

Councilor Sweeney asked if an additional tax could be applied for non-year-round non-resident ownership and those tax funds could support an affordable housing program. Manager Smith mentioned that is something that has been looked at, similar to Hawaii. It is regulated by the state, and we would have to go through state legislature to allow us to tax non-residents at a higher rate. Manager Smith stated through our fee system for short-term rental business license we could do something similar through an increase of fees. Councilor Qunell asked if an assessment could be added for those that are short-term rentals. Manager Smith stated it would have to be an assessment to support infrastructure needs. Councilor Qunell stated he could argue the influx of visitors has impacted our streets. He also asked and Director Workman stated because we are unable to get paint to mark the road properly stating Skyles Place as a one-way street, the project has been delayed until next season to properly mark the road. Councilor Qunell thanked staff for their hard work that was put into the budget.

Councilor Davis mentioned there should be a permanent source of funding coming from the city towards housing initiatives. In his mind the chief cause of the problem is the visitation economy, and he thinks there should be some mechanism to take some funding from that and help pay for the problem for the

constituents in our community. He feels this council should find a solution. He also commented on the Eagle Lake project is an example of part of the problems we have. That project is next to long-term residential. It goes to show the kind of development we are getting is not the kind of development we need in town.

Councilor Norton asked Interim Police Chief Kelch what the public's responsibility is in terms of not threatening elected officials and how we handle that in the city. Interim Chief Kelch stated with the results of the School Boards decision, he and his team have been working with the school district to reference those communications. They look at each communication, threat, or perceived threat individually and investigate that matter. It is a case-by-case basis. He encourages anybody who they feel have been threatened, to contact the Police Department to file a report. Councilor Norton also mentioned she has been asked by citizens about a littering ordinance and an idling ordinance. She also mentioned there was some sewage smell again. Director Workman stated if Council receives complaints or calls pertaining to the smell coming from the Wastewater Treatment Plant (WWTP) to direct those calls to the Public Works Department. He gave an update; a letter was mailed to several hundred people that own property around the WWTP updating them on the project, the new plant and the operation and the decommissioning of the ponds. He anticipates this will be taken care of before next spring. They are working hard to make sure that the new plant is up and running and meeting all of the permit requirements and will be focusing attention this fall on the decommissioning of the existing ponds. Councilor Norton also asked the Council to set an example and follow the CDC guidelines pertaining to COVID-19.

Director Workman stated the Edgewood Reconstruction Project has been restarted. Edgewood is currently closed between Texas Avenue and Colorado Avenue. There is a posted detour in place as Colorado and Texas up to Denver. There have been some concerns raised from local residents about use of streets within the detour. We are not preventing vehicles from dispersing within the neighborhoods, but we are recommending through signage, vehicles to use that detour.

11) 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 9:01 p.m.

/s/John Muhlfeld
Mayor Muhlfeld

Attest:

/s/Michelle Howke
Michelle Howke, Whitefish City Clerk