

WHITEFISH CITY COUNCIL
September 6, 2022
SPECIAL SESSION AT 6:45 P.M.

1) Call to Order

The meeting was held in-person in the Council Conference Room. Deputy Mayor Sweeney called the meeting to order. Councilors present were Davis, Qunell, Sweeney, Norton and Caltabiano. Councilors Feury was absent. Staff present were City Manager Smith, City Clerk Howke and Planning and Building Director Taylor

2) Interview

City Council interviewed Cynthia Ingelfinger for the Whitefish Lake and Lakeshore Protection Committee. Kurt Schram was scheduled to be interviewed for the Architectural Review Committee but had to pull his letter due to family health issues.

3) Public Comment

None

4) Appointment

The City Council has another interview for the Whitefish Lake and Lakeshore Protection Committee at the next scheduled meeting on September 19th. Appointments will be made at that time.

5) Adjourn,

Mayor Muhlfeld adjourned the meeting at 6:59 and opened the regular session.

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, City Clerk

WHITEFISH CITY COUNCIL

September 6, 2022

7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Caltabiano, Davis, Sweeney, and Norton. Councilor Feury was absent. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs, Finance Director Gospodarek, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Kelch and Senior Planner Compton-Ring. Approximately 50 people were in the audience and 4 attended virtually.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Heidi Van Everen to lead the audience in the Pledge of Allegiance.

3) PROCLAMATION

- a) [Recognizing](#) and Supporting the Right to Personal Autonomy and the Right to Local Control (p.32)

Mayor Muhlfeld mentioned the proclamation is at the behest of 5 of the 6 council members and himself. Councilor Caltabiano opposes the proclamation.

4) PRESENTATION

- a) [Consideration](#) to approve application for Smith Lake Public Recreation Use Easement and Restoration Project – Whitefish Legacy Partners (p.35)

Heidi Van Everen, Whitefish Legacy Partners Executive Director provided a presentation explaining the application for Smith Lake Public Recreation Use Easement.

Councilor Caltabiano made a motion, seconded by Councilor Sweeney to approve moving forward with the application for the Smith Lake Public Recreation Use Easement. The motion carried.

- 5) 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)

Kristin Riter, 620 Nature Trail, is not in support of the council's proclamation that was read earlier. The proclamation does not represent the population. She asks the council to consider retracting the proclamation supporting the Right to Personal Autonomy and the Right to Local Control.

Mark Bray, 111 Trails End Road, stated the council does have the right to speak for the community. They are elected officials. Everybody has the right to choose for themselves. Council was expressing through the proclamation, freedom for individual choice. He appreciates that.

Margie Spencer, 116 Wildrose Lane, expresses her appreciate for those who support the proclamation. this. It shows leadership. She encourages our city council members to be thoughtful about their use of social media. It is okay to disagree with your colleagues. It needs to happen in this room, where Council can listen and talk to each other. This is Whitefish and we expect collaboration and professionalism from our officials.

Randy Larson stated he could be behind this proclamation if the Council was truly under god. If this proclamation were said to protect the lives of the baby also, he could get behind this proclamation. He does not believe that it is. He asks the Council to repent and retract this proclamation.

Mark Andreas, 504 E 6th St., spoke towards deed restricted housing. Real estate has been by far the highest rate of return for investment. Even though the deed restricted housing has the best intentions, it seems to be allowing this community to reap the benefit of its outside wealth. His thoughts as a proposal are similarly to the deed restrictive housing. Require people to live 10 months of the year in their home, in a designated a neighborhood, as the primary resident.

Ted Valentiner, stated in light of the recent proclamation, he believes a civics history refresher might be appropriate. Council action tonight has deprived him of the right to free speech. Council has taken his right to express his opinion, highjacked it and replaced with their opinion and publicly made a statement of moral values on his behalf which he was not consulted. He did not approve in which he adamantly disagrees.

“Z”, thanked the council and the City of Whitefish. The proclamation is symbolic, but symbols are important. Symbolic gestures are important in our time. It is a big deal to those of us who are involved in these issues whether it is women’s reproductive health or any other great issue at the time.

Judy Pettinato, 440 Parkway Drive, has provided two letters that are included in the packet addressing concerns of the Lakeshore Variance Application request form the Birch Hill HOA. She believes in following the rules. The neighbors on both sides of the applicant are against the dock being pushed out. They do not have a lot of available water to use in Monk’s Bay, so if you allow this variance, then you have others who are going to want to move their docks out. It would be a mistake if allowed to happen.

Linda Shannon reiterated the hypocrisy of the proclamation and would like to know where the Council’s personal concerns for where our autonomy was during COVID when you forced mask mandates on people that did not agree with them.

Richard Hildner, 104 5th Street, thanked the Council for the proclamation this evening. When white supremacies came to our town spewing hate and vitriol, our community stood tall in the face of such bigotry. The city wrote and unanimously passed a nondiscrimination ordinance protecting all of our citizens regardless of their religion, sextual orientation, age, or ethnicity. Thank you for having the courage to claim and affirm our rights to personal autonomy and privacy once again. He thanks the council for that effort.

Mayre Flowers, Citizens for a better Flathead, appreciates the fact that Council has stepped forward with this proclamation. We have seen from the legislature recently where they have removed the ability of local cities and towns to effectively plan for issues like housing issues that should be protected, and local government need to be able to look at the particular local situation. Things like the transportation plan, or the housing efforts to try to create affordable housing. Those are issues that are particular to each community and need to have local control. She supports that aspect of the proclamation and encourages the Council to address Montana Legislature to respect the need in planning and zoning to have local control.

6) COMMUNICATIONS FROM VOLUNTEER BOARDS

- a) [Whitefish](#) Community Library Excellent Library Service Award Resolution, 2022 (p.44)

Sarah Ericson, Whitefish Community Board of Trustees Chair, stated for the 10th year in a row, the Whitefish Community Library has been awarded the Excellent Library Service Award (ELSA), presented by the Montana State Library, to library's that provide excellent service to their communities. Whitefish Library has received this award every year since its inception. To qualify for this award, one must meet a set of standards, which were most recently updated and adopted by the State Library Commission in August 2021, and ensures our library qualifies for state aid and supports the budget. In light of many issues facing libraries, we are fortunate that we have a staff that respects and cares for each other. Our Board of Trustees takes an active role in listening to the staff and supporting the mission of the Whitefish Community Library. We are fortunate to have city administrators that continue to assist and champion us and our mission.

- b) Consideration of a request from the Bicycle and Pedestrian Committee and Park Board's recommendation to accept the concept plan for Riverbend Trail (p.47)

John Phelps, Bike/Ped Committee Chair, reported on November 1, 2021, Council recommitted to building the Riverbend Trail and directed the Committee and staff to begin working on it. Two conceptual plans have been submitted to the Bike/Ped Committee and to the Park Board to consider. Bruce Boody has submitted an elevated trail plan, and the Riverbend Condo HOA submitted a surface plan. After considering both plans, the two committees recommend Bruce Boody's proposal.

The homeowners plan is similar to what was proposed by the City to Fish Wildlife and Parks (FWP) in 2019. FWP did not support the surface plan.

The advantages of an elevated relies on helical piers supporting the path. An elevated path allows construction of the entire length of the trail with minimal excavation, fill or other construction on the riverbank. An elevated path would replace the entire length of the trail above the ordinary high-water mark. An elevated trail allows an additional four feet in width to be cantilevered out over the state-owned riverbed allowing for a 10-foot-wide path along most of the length of the river. The American Association of State Highway and Transportation Officials (ASHTO) design guidelines recommend a minimum of 10 feet for multi-use trails and would allow use by individuals of all ages and abilities. For its entire length, the elevated path would maintain a grade that complies with Americans with Disabilities Act, consistent with all other sections of the cities river trail. The primary disadvantage of the proposed elevated trail will be more expensive to build.

Bruce Boody presented to the Council his conceptual plan for an elevated path. The proposal is an elevated concrete surface pathway, constructed on helical piers. The trail is centered on the low water mark of the river, so that we can take advantage of the 6-foot easement on the Riverbend Condo property and cantilevering 4 feet out on the state-owned riverbed. That is the only way we can get a 10-foot width which is what we need for the ability for all people to use this trail. The trail will be built about 7/10 of a foot vertically above the average high-water mark. The proposed trail will be under water at the 100-year flood. They were trying to find a compromise where we can keep the trail as far as possible away from the condo owners buildings and at an elevation where it is almost always accessible. This spring we had some of the highest water level recorded for Whitefish, this trail would have been underwater by about a foot, and it would have lasted for a couple of weeks. That happens very rarely. It is a compromise to keep it away from the condo buildings and to not have it so far up in the air that it diminishes the condo owners view of the river. We have other constraints that we have to work with; we have to meet the grade of the underpass, which has already been built and is existing; and we have to meet the right grade at the north property line adjacent to the Malmquist property; and there is an infiltrator system for

the contaminated groundwater coming from the old lagoons and BNSF, that we need to avoid. We feel this is really the best option to serve the entire populous of the community and visitors.

Councilor Sweeney made a motion, seconded by Councilor Qunell to accept the elevated concept of the Riverbend Trail. The motion carried.

- 7) **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 15, 2022, Regular Session (p.57)
 - b) [Ordinance No. 22-11](#); An Ordinance of the City Council of the City of Whitefish, Montana, rezoning approximately 19.375 acres of unaddressed land located between Park Knoll Lane and JP Road and known as Tract 3BBD in the Southwest Quarter of the Southeast Quarter and the Southeast Quarter of the Southwest Quarter in Section 1, Township 30 North, Range 22 West, P.M.,M., Flathead County, Montana, that are zoned WCR (Country Residential District) to split zoning of WER-SC (Estate Residential District with Special Conditions) and WR-2-SC (Two-Family Residential District with Special Conditions); and 11.26 acres of land addressed as 6208 US Highway 93 South and known as Tract 3B in the Southwest Quarter of the Southeast Quarter in Section 1, Township 20 North, Range 22 West, P.M.,M., Flathead County, that are zoned WER (Estate Residential District) and WB-2 (Secondary Business District) to split zoning of WR-2-SC (Two-Family Residential District with Special Conditions) and WB-2 (Secondary Business District), and adopting findings with respect to such rezone (WZC 22-04) (Second Reading) (p.66)
 - c) [Consideration](#) of a request from Jeffrey and Karin Thill for an application for Final Plat for Mountain Shadows, Lot 14, a 2-lot subdivision located at 2385 Mountain Shadows Drive, zoned WR-1 (One-Family Residential District) (WFP 22-06) (p.71)

Councilor Sweeney made a motion, seconded by Councilor Norton to approve the Consent Agenda. Councilor Norton made corrections to the August 15, 2022 Council minutes, page 59 of the packet, under comments from Josh Wilson, They humbly ~~respect-request~~ that the Council deny this application; and page 59, Director Taylor stated ~~T~~the state law states if the entrance. **The motion carried to approve the Consent Agenda as amended.**

- 8) **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. 22-12](#); An Ordinance rezoning approximately 66.4 acres of land located to the east of E. 2nd Street and south of E. Edgewood Drive, known as Tract 3D, 5BA, and 3E (COS No. 2134) in Section 32 and 33, Township 31 North, Range 21 West, P.M.,M., Flathead County, Montana, from County SAG-10 (Suburban Agricultural) and County AG-20 (Agricultural) to WCR (Country Residential District) and WA (Agricultural District), and adopting findings with respect to such rezone (WZC 22-06) (First Reading) **POSTPONED FROM 8/15/2022** (p.102)

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 consideration.

Councilor Caltabiano made a motion, seconded by Councilor Norton to approve the Ordinance rezoning approximately 66.4 acres of land located to the east of E. 2nd Street and south of East

Edgewood Drive, known as Tract 3D, 5BA, and 3E (COS No. 2134) in Section 32 and 33, Township 31 North, Range 21 West and accept the Findings of Facts of the city staff as well as the recommendation from the City Planning Board. The motion carried.

- b) Consideration of a request from 1291 Edgewood LLC for a Growth Policy map amendment, zoning map amendment, preliminary plat, and planned unit development overlay, referenced as the Edgewood 90 Project, located at 1291 East Edgewood Drive and unaddressed parcels to the east of East 2nd Street, legally described as Tract 3, 3D, 3E, and 5BA in Section 32 and Section 33, Township 31 North, Range 21 West, P.M.,M., Flathead County, Montana (WPGA 22-01, WZC 22-07, WPP 22-05, WPUD 22-02) **POSTPONED FROM 8/15/2022** (p.138)
 - i) Resolution No. 22-26; A Resolution indicating its intent to adopt a map amendment to the 2007 Whitefish City-County Growth Policy, as requested by 1291 Edgewood, LLC and adopting findings with respect to such amendment (WGPA 22-01) (p.169)
 - ii) Ordinance No. 22-13; An Ordinance rezoning approximately 3.4 acres of land located at 1291 East Edgewood Drive in the Northeast Quarter of Section 32, Township 31 North, Range 22 West, P.M.,M., Flathead County, Montana, zoned WI (Industrial and Warehousing District) to WR-2 (Two-Family Residential District) and adopting findings with respect to such rezone (WZC 22-07) (First Reading) (p.186)
 - iii) Ordinance No. 22-14; An Ordinance approving the Edgewood 90 Subdivision Preliminary Plat and Planned Unit Development, to develop a 15-lot mixed-use subdivision to the north of the BNSF Railroad Tracks and south of E. Edgewood Drive, Whitefish (WPP 22-05/WPUD 22-02) (First Reading) (p.205)

Senior Planner Wendy Compton-Ring presented her staff report that is provided in the packet on the website. She presented together the Growth Policy amendment, zone change, and the preliminary plat with Planned Unit Development.

Mayor Muhlfeld called for a recess at 8:58 p.m. and reconvened at 9:07 p.m.

Mayor Muhlfeld opened the Public Hearing.

Sean Averill, 3068 River Lakes Drive, applicant, stated this is a unique area that is on the transition from pretty dense city to some larger rural farms. It is two unique pieces, a field, and an industrial park. Their plan for property to the east of 2nd Street, was lots that start at 4 acres and the end up at 10 acres tracks farther east. The theory was to cap off the city and be that transition from dense subdivision to larger farms. When meeting with the neighbors, they did not want driveways off East Edgewood. Since this plan was submitted, the neighbor to the east, preferred to have two 15-acre tracks on the easter boarder of the project.

The west side of East 2nd Street is zoned industrial. They tried to keep the industrial lots closer to the tracks. They are proposing 30 units on Lot 5. The lot is buffered from East Edgewood. The east side of this portion will have a trail to the dog park, and an easement. There is deeded open space, and then Lot 6, is to be developed in the future as a conservation easement, or a park.

Sean stated they would like a paved path along 2nd Street and a non-paved path through the property to the multi-family units. They are also hoping 2nd street is not a boulevard with streetlights, and only a

bike path on the west side of E. 2nd Street to Edgewood. He does not understand the cash in lieu on the other side.

Steve Knox, 1455 East Edgewood Drive, is concerned the lots on the eastern portion of 2nd Street could be further subdivided. He wished there were some way to propose that those lots not be further subdivided.

Pam Reeb, 1800 East Edgewood Drive, is concerned with the traffic that will be increased due to this project.

Son Vu, 739 East 2nd Street, does not feel the proposed conservation area/park is a community benefit, rather only a benefit of those property owners. He asks the council to reconsider all the supposed benefits.

Heidi Van Everen, 4 Pine Avenue, stated it is important to understand and make sure Council think about the bike path connectivity. Somebody has to figure out how to connect the trails to the north and south of the tracks. She also questions the traffic impact assessment.

Gary Gorian, via Webex, 1489 East Edgewood Drive, owns the property directly to the east. He has concerns with light pollution. Developing East 2nd Street with any type of streetlights is out of character for what we are trying to preserve. He requests the City Council delete that condition and move ahead otherwise with everything that has been presented tonight. This is a thoughtful plan, and he supports it.

Identified as Chaz Taylor on Webex, 33 Snowshoe Flats agrees with Gary regarding to the dark skies issues. She also has a hard time believing that the traffic will not be impacted. The train is often holding up the traffic at 2nd Street.

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

8bi) [*Resolution No. 22-26*](#); *A Resolution indicating its intent to adopt a map amendment to the 2007 Whitefish City-County Growth Policy, as requested by 1291 Edgewood, LLC and adopting findings with respect to such amendment (WGPA 22-01) (p.169)*

Councilor Qunell made a motion, seconded by Councilor Caltabiano to approve Resolution No. 22-26; A Resolution indicating its intent to adopt a map amendment to the 2007 Whitefish City-County Growth Policy as requested. Councilor Caltabiano is concerned how obsolete our City Growth Policy 2007 is, and we had better get to work and revise it. Councilor Qunell stated the first step in considering this whole thing is this Resolution and reminded his fellow Councilor the Growth Policy is updated through many amendments since 2007. **The motion carried.**

8bii) [*Ordinance No. 22-13*](#); *An Ordinance rezoning approximately 3.4 acres of land located at 1291 East Edgewood Drive in the Northeast Quarter of Section 32, Township 31 North, Range 22 West, P.M.,M., Flathead County, Montana, zoned WI (Industrial and Warehousing District) to WR-2 (Two-Family Residential District) and adopting findings with respect to such rezone (WZC 22-07) (First Reading) (p.186)*

Councilor Caltabiano made a motion, seconded by Councilor Sweeney to adopt Ordinance No. 22-13 as stated on the agenda. The motion carried.

8biii) [Ordinance No. 22-14](#); An Ordinance approving the Edgewood 90 Subdivision Preliminary Plat and Planned Unit Development, to develop a 15-lot mixed-use subdivision to the north of the BNSF Railroad Tracks and south of E. Edgewood Drive, Whitefish (WPP 22-05/WPUD 22-02) (First Reading) (p.205)

Councilor Qunell asked for clarification regarding the map on page 176 of the packet, depicting lot 6 as phase 2. Eric Mulcahy with Sands Surveying stated this was intentional that they created a phase 2 that would have to come back to Council if they did anything to it. The intent is to utilize a conservation easement over that particular property. When you work with a conservation entity, they are essentially using tax credits or tax incentives to purchase the development rights off that property. If it is conditioned that it cannot be developed, then there are no development rights to sell or trade to that conservation easement.

Councilor Sweeney made a motion, seconded by Councilor Qunell to approve Ordinance No. 22-14.

Councilor Sweeney made a motion, seconded by Councilor Qunell to make a friendly amendment not to require standard streetlights on East Second Street or in the subdivision. Planner Compton-Ring stated the applicant has already asked for variance to have no streetlights within the subdivision on the private street side. On the western side, that is a public 60 foot right of way, there are four industrial lots, and multi-family units. They are going to build to standard street requirements with curb, gutter, boulevard, street trees and streetlights. Director Workman stated is it staff recommendation that E 2nd Street be improved to standard subdivision regulations with boulevard, curb, gutter, street trees and streetlights. Second Street is a collector street.

After some discussion **Councilor Qunell made a motion, seconded by Councilor Sweeney to amend Condition #14 to East 2nd Street from the BNSF train tracks to the E. Edgewood Drive intersection must be improved to include, curb, gutter, street trees and provide conduit and bases for street lights poles and pay cash-in-lieu for future poles on both sides. Coordinate with the Parks Department on the installation of street trees – species and installation. The motion carried on a 4-1 vote with Councilor Norton voting in opposition.**

Councilor Davis made a motion, seconded by Councilor Qunell to amend Condition #15 ~~A fee in lieu of sidewalks must be paid for the east side of the E. 2nd Street from the BNSF train tracks to the intersection of E. Edgewood Drive~~ Construct a pedestrian path from BNSF railroad tracks to the nearest City sidewalk and provide a suitable pedestrian crossing. The motion carried.

Councilor Davis made a motion, seconded by Councilor Sweeney to add Condition #25, Provide an easement on the south side of E. Edgewood, east of E. 2nd Street. The motion carried.

The original motion to approve Ordinance No. 22-14 as amended carried.

- c) [Consideration](#) of a request from Robert Ackerman for a Conditional Use Permit to construct a guesthouse located at 387 Fraser Avenue, zoned WR-2 (One-Family Residential District) (WCUP 22-22) (p.333)

Planner I, Nelson Loring 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 Sweeney made a motion, seconded by Councilor Caltabiano to adopt WCUP 22-22, the Findings of Fact in the staff report and recommendation from the Planning Board. The motion carried.

- d) [Resolution No. 22-](#); A Resolution of intent to adopt the 2022 Whitefish Transportation Plan as an amendment to the 2007 Whitefish City-County Growth Policy and adopting findings with respect to such amendment (WPGA 22-02) (p.364)

Councilor Caltabiano made a motion, seconded by Councilor Sweeney to postpone to September 19, 2022 City Council meeting. The motion carried.

9) COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

- a) [Ordinance No. 22-](#); An Ordinance rezoning approximately 31.171 acres of land known as Tract 3 of COS No. 20440 in Section 1, Township 30 North, Range 22 West, P.M.,M., Flathead County, Montana, from County SAG-5 (Suburban Agricultural) to WCR (Country Residential District), and adopting findings with respect to such rezone (WZC 22-05) (First Reading) **(MOTION TO RECONSIDER 8/15/2022-PUBLIC HEARING CLOSED)** (p.607)

This was presented at the August 15, 2022 City Council meeting as a Public Hearing. Two members of the Council were absent. Pursuant to Whitefish City Code, 1-6-2 (E)(3) No ordinance shall be passed or repealed unless by the vote of a majority of the members elected. A motion was made to approve, with a vote of 3-1. At the time Mayor Muhlfeld announced the motion carried. Later it was announced for the record to reflect the motion failed. A motion was made to reconsider the Ordinance and a motion to reconsider the ordinance with the public hearing closed at the September 6, 2022 City Council meeting.

Councilor Caltabiano made a motion, seconded by Councilor Davis to adopt Ordinance No. 22-15. The motion carried.

- b) [Consideration](#) of a request from Birch Hill Homeowners Association for a Whitefish Lake and Lakeshore Protection Minor Variance to extend an existing grandfathered community dock 20' out to 163' in length, located on Parkway Drive (WLV 22-W08) (p.633)

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

Mayor Muhlfeld invited members of the audience to speak towards this application.

Tom Abshire, 520 Glenwood Road, representing the applicant. He stated this project was started about a year ago. They are asking to extend their shared dock by 20 feet to enhance the safety and use of the dock. With the extension the dock does not interfere with the navigational corridor and referred to page 711-713 of the packet.

Marcia Sheffels, 415 Parkway Drive, stated she is a strong advocate of the Whitefish Lakeshore Protection. She opposes the application. The planning staff and the Whitefish Lakeshore Protection Committee recommended denial of this variance. Water depth and mud flats are a problem. Approval of this permit will set a precedence for other dock extension requests. Crowdedness in Monk's Bay is a

safety concern. A new survey of the Birch Hill Community Park should be required before any changes are approved.

Koel Abell, 355 Lost Coon Trail, opposes the application. Currently as the Birch Hill HOA dock sits, at 143 feet, they are in violation of the riparian setback as is. Adding 20 feet exacerbates their infringement. He asks the Council to deny the application.

Kitty Curtis, 1267 Birch Hill Drive, stated at this point, the water dept is 3 feet at the end of their dock. For 29 property owners, they only have space for 2 boats. The children of the neighborhood love to use the community beach. The children cannot jump off the end of the dock with 3 feet of water. They would like to be able to give their 29 homeowners reasonable use of their dock.

Paul Flanigan, 1220 Birch Hill Drive, supports the extension of the dock. He does not see additional 20 feet being any more danger to the area. He does not feel this is an unreasonable ask. There is a unique condition that exist in Monks Bay, and they are trying to accommodate for it.

Stewart Stadler, 1267 Birch Hill Drive, stated the denial by the Planning Board was potential interference with navigation. The application should be approved. The extension is to allow people to swim and dive off the dock. This is not violating anybody's riparian rights.

TJ Harris, 1220 Wisconsin Avenue, is in favor of the application. He feels it is a reasonable request for the 20-foot extension.

Councilor Norton made a motion, seconded by Councilor Sweeney to deny WLV 22-W08. Councilor Norton stated she trusts the Whitefish Lakeshore Protection Committee and planning staff on the decision making. It does not seem like much, but better to side on the error of caution. Councilor Norton withdrew her motion, agreed by Council Sweeney. Councilor Norton made a motion, seconded by Councilor Qunell to postpone to September 19, 2022. The motion carried.

- c) [Consideration](#) of a request from D&S Perl Family Trust for a Whitefish Lake and Lakeshore Protection Minor Variance for dry stone steps, dynamic beach gravel, and Lakeshore permit for repair of retaining wall and stone steps, located at 298 Skyles Place (WLV 22-W22) (p.740)

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

Councilor Caltabiano made a motion, seconded by Councilor Sweeney to approve WLV 22-W22. The motion carried 4-0, Councilor Norton was temporarily excused.

10) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) [Consideration](#) to reject the Construction Bid for the Grouse Mountain Parking Lot Project (p.771)

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

Councilor Qunell made a motion, seconded by Councilor Caltabiano to reject the construction bid for the Grouse Mountain Parking Lot Project. The motion carried.

- b) [Consideration](#) to apply for a Safe Streets and Roads for All Grant and a Railroad Crossing Elimination Grant (p.774)

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

Councilor Sweeney made a motion, seconded by Councilor Caltabiano to apply for a Safe Streets and Road for All Grant and a Railroad Crossing Elimination Grant. The motion carried.

11) COMMUNICATIONS FROM CITY MANAGER

- a) [Written report](#) enclosed with the packet. Questions from Mayor and Council? (p.777)

None

- b) Other items arising between August 31st through September 6th

City Manager Smith welcomed Lanie Gospodarek, as the new Finance Director for the City of Whitefish. Today is her first day. Staff is excited to have her on board.

12) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

Council Comment

Councilor Caltabiano stated he ran for Council because he believes in trust and timeless protection for all of us and our countries democratic process. Tonight, he has been disappointed by the actions of the elected leadership of our city, which he is apart. He has witnessed disregard by our own laws. He asked Mayor Muhlfeld to direct staff to check and correct the word “effect” into “affect” before signing and ratifying the proclamation.

Councilor Sweeney stated he could not be prouder of this body and the Councilors who feel it affects and impacts our community in particular given the number of people involved in the healthcare positions, and providers in this town. It reflected this communities openness and inclusiveness. He was moved by the proclamation and proud to do it.

Councilor Norton stated Council contributes to the body of law. The proclamation is a situation where Council and in cooperation with the City Attorney, decided to move the body of law forward by declaring what we think is right for our community. In reality, we are responsible for the health and safety of our constituents. So, by not speaking up if we are off track, we are not doing a service to the people that live here. It is important when we need to correct something that we think has been done to possibly harm people. It is important to stand up for what we believe in. She thanked those Council members who supported this.

Mayor Muhlfeld stated he will always default to our City Attorney when questioning our legal standing when operating as a Council. It was not brought to his attention that anything was done unlawfully.

13) 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 10:58 p.m.

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk