

## WHITEFISH CITY COUNCIL

October 5, 2020

7:10 P.M.

### 1) CALL TO ORDER

The City Council approved Emergency Ordinance No. 20-14 to provide for remote meeting of the City Council, City Boards and Committees to protect the health and wellbeing of all attendees, practice social distancing and to continue to have public meetings to serve the community during the COVID-19 pandemic. Mayor Muhlfeld called the meeting to order. Councilors present were Qunell, Feury, Hennen, Hartman, Sweeney, and Norton. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs, Finance Director Dahlman, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts and Planner II Compton-Ring. Approximately 19 people were in attendance.

### 2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked City Clerk Howke 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)

Robin Paone, 1057 Creekview Court, thank you Mayor Muhlfeld, City Council and staff for the exceptional work you do to serve the people of our city. She asks for the Council's consideration in creating a resolution to support the Energy Innovation and Carbon Dividend Act, a bill which has been introduced to congress. The Energy Innovation and Clean Dividend Act will reduce America's emissions by at least 40% within 12 years. This policy will create 2.1 million additional jobs over the next 10 years, thanks to the growth and clean energy economy. This policy will also improve health and save lives by reducing pollution. Additionally, the carbon dividend puts money directly into people's pockets every month to spend as they see fit, helping low- and middle-income Americans. The government does not keep any of the fees collected so the size of government will not grow. The City of Whitefish Climate Action Plan calls for the transition to a clean energy economy. Endorsing the Energy Innovation Act supports this plan. Supporting this legislation sends a strong message to our members of congress to act on their concern. The Energy Innovation and Carbon Dividend Act is a simple yet fair and effective bipartisan solution which continues our American tradition of ensuring a wonderful future for our children. Please support a city resolution endorsing this bill.

Melissa Hartman, 436 Park Avenue, seconded Robin's comments of appreciation. The Energy Innovation and Carbon Dividend Act is vital. Protecting our climate is vital. We are known for our great outdoors, skiing, fishing, etc. So many depend on our climate. Bad fire seasons impact businesses and tourism and have the potential to have severe impacts on our economy. Supporting the Energy Innovation and Carbon Dividend Act is important.

Richard Hildner, 104 5<sup>th</sup> Street East, stated it is important the city weigh in as one more voice to support the Energy Innovation and Carbon Dividend Act in order to protect the environment.

Patrice LaTourelle, Lupfer Avenue, provided written comment that is appended to the October 5<sup>th</sup> packet on the website. City Clerk Howke read the letter into the record. Patrice is concerned with the traffic problem on Lupfer Avenue between Second Street to 4<sup>th</sup> Street and to Baker Avenue. She provided a diagram to show parking and traffic flow and indicated what would solve this problem.

**4) COMMUNICATIONS FROM VOLUNTEER BOARDS**

- a) **Resolution No. 20-37**; A Resolution extending the Highway 93 South Corridor Steering Committee (p.14)

**Councilor Feury made a motion, seconded by Councilor Hennen to approve Resolution No. 20-37; A Resolution extending the Highway 93 South Corridor Steering Committee. The motion carried.**

**5) CONSENT AGENDA**

- a) **Minutes** from September 21, 2020 Regular Session (p.18)
- b) **Resolution No. 20-38**; A Resolution extending the Sustainable Tourism Management Plan Steering Committee (p.24)

**Councilor Sweeney made a motion, seconded by Councilor Norton 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) **Ordinance No. 20-13**; An Ordinance amending Title 11 – Zoning Regulations, Chapter 3 – Special Provisions, Section 42 – Multi-Family Development Standards, and Section 43 – Mixed-Use and Non-Residential Building Development Standards, of the Whitefish City Code (WZTA 20-03) (First Reading) **TABLED FROM SEPTEMBER 8, 2020 (Public Hearing Closed)** (p.27)

Director Taylor reviewed his staff report that is provided in the packet on the website. This Public Hearing was tabled for discussion and decision from September 8, 2020, with the Public Hearing portion closed.

Councilor Davis asked and Director Taylor the language in the code says buildings must be oriented towards the street and public paths. Site Review and Architectural Standards have similar language for any non-residential or mixed-use building.

Councilor Norton asked Director Taylor sated different zoning districts have landscaping requirements. This is city-wide in any place where mixed-use or non-residential buildings are permitted. The landscaping chapter as well as each of the zoning district have certain landscaping requirements and buffering.

Discussion followed between Councilor Feury and Director Taylor resulting in the following motion:

**Councilor Feury made a motion seconded by Councilor Qunell to approve Ordinance No. 20-13; An Ordinance amending Title 11 – Zoning Regulations, Chapter 3 – Special Provisions, Section 42 – Multi-Family Development Standards, and Section 43 – Mixed-Use and Non-Residential Building Development Standards, of the Whitefish City Code (WZTA 20-03) on a first reading, changing:**

11-3-43 B Building Orientation and Multi-Building Sites:

1. Orientation. Buildings must be oriented towards the primary street frontage and public paths and/or sidewalks. Buildings on corner lots should be oriented towards the primary intersection.

~~a. — Where properties front one or more streets, new buildings must be located no more than twenty-five (25) feet from the primary street frontage. Buildings may be located further away from the primary street when separated from the street by existing healthy and mature trees being retained in perpetuity. In those cases, buildings should be placed as close to the trees as practical and a plan must be submitted to maintain the health of the trees along with a replacement plan for dead, dying, or hazardous trees.~~

~~(1) — Exception: The maximum front yard setback does not apply where a landscaped greenbelt is proposed or required. In those cases, buildings must be placed as close to the greenbelt as practical.~~

~~(2) — Exception: Buildings may be located further away from the primary street when separated from the street by courtyards, outdoor seating areas, or areas of extensive landscaping. In those cases, buildings must be placed as close to those areas as practical.~~

~~(3) — Exception: Buildings may be located further away from the primary street when separated from the street by existing healthy and mature trees being retained in perpetuity. In those cases, buildings should be placed as close to the trees as practical and a plan must be submitted to maintain the health of the trees along with a replacement plan for dead, dying, or hazardous trees.~~

~~(4) — Exception: Accessory and secondary buildings need not comply with the maximum setback standards where a primary building occupies the available street frontage.~~

~~(5)(1) No new vehicle access, drive throughs, or private roads are allowed in the area between the building and the street, it must be either healthy, mature trees, or landscaped or pedestrian space such as a plazas or patios with outdoor seating.~~

**The motion to approve with the amendment carried with a roll call.**

b) **Consideration of a request from Doug Hickok for a Conditional Use Permit to construct a guest house located at 1632 West Lakeshore Drive, zoned WR-1 (One-Family Residential District) (WCUP 20-14) (p.115)**

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

Mayor Muhlfeld opened the Public Hearing.

Mayre Flowers raised her hand to speak, due to technical difficulties she was unable to make a comment.

Richard Hildner, 104 E. 5<sup>th</sup> Street, suggested adding a condition to require bear resistant trash receptacles be provided.

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

**Councilor Sweeney made a motion, seconded by Councilor Qunell to approve WCUP 20-14, the Findings of Fact in the staff report, and six conditions of approval as recommended by the Whitefish Planning Board on September 17, 2020.** Discussion followed regarding conditioning the permit to require bear resistant trash receptacles.

**Councilor Sweeney amended his motion, seconded by Councilor Qunell to add a Condition #7 the homeowner is required to provide and keep all trash in an enclosed space unless bear resistant container is provided. The motion carried with a roll call.**

**The original motion to approve WCUP 20-14 as amended carried with a roll call.**

- c) **Consideration of a request from Jake Carter for a Conditional Use Permit to construct a commercial parking lot associated with the professional office at 307 Spokane Avenue, zoned WR-4 (High Density Multi-Family Residential District) (WCUP 20-13) (p.143)**

Director Taylor gave his staff report provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing.

Jake Carter, applicant reviewed the history of the lot. The current owners of 307 Spokane purchased the building in 2015, Jake is the newest member to that group. He is a business owner and a tenant of the building. They want to do what they can and be as little of a burden as they can to the neighbors. They felt this proposal was the give and take. He can not dispute the fact there will be more alley way traffic. He does not know if it is a one-way solution. With this project they are creating some new homes and solving some parking issues in the downtown area.

Councilor Norton asked and Mr. Carter stated he has been informed there has been communication that the power pole can be moved. He also stated as soon as they were notified by the City parking in the parking was illegal, they put up signage for residential parking only. The parking is not being enforced.

Richard Hildner, 104 E 5<sup>th</sup> Street, opposes the application. This will create further creep into the neighborhood, Council should not be considering a commercial parking lot in the WR-4. The Parking Garage is a quarter of a mile away. He implores the Council to deny WCUP 20-13.

John Ellis, 630 Somers Avenue, provided a letter that is in the packet on the website. He opposes the application on bases of; Council denied similar application in 2012; and fails to comply with the Growth Policy, Regulations or Neighborhood/Community Compatibility. He opposes the application.

Mary Drew Powers, 327 Kalispell Avenue, is opposed to the application. Her concern is the traffic in the alley that would adversely impact her neighbors across from her.

Eric Mulcahy, Sands Survey, 2 Village Loop, Kalispell, stated parking is an accessory use. None of the districts in the Whitefish zoning code list parking as a permitted or conditionally permitted use. Each zoning district refers to the parking section of their code to address parking. Under WR-4 zoning designation in the parking section refers to section 11-6-3-1( c), non-residential uses in the WR-4 can have parking up to 300 feet from their property. That is the section they are relying on. They knew when this came about in 2012 there was a real issue having a parking lot fronting on Kalispell Avenue. The plan was to make the best of the situation by providing much needed parking to the downtown and also provide much needed housing. They designed their building to mimic the single-family stature as seen on Kalispell Avenue.

Sarah Canepa, 336 Kalispell Avenue, is opposed to the application. She has concerns with the traffic in the alleyway, and the precedent of a residential neighborhood.

Rhonda Fitzgerald, 412 Lupfer Avenue, opposes the application. The Growth Policy states there are neighborhoods that are zoned incorrectly. It is important we honor our historic neighborhoods.

Jake Carter, applicant, stated he and his partners want to do this project because they are allowed to, and it is what is best for the whole neighborhood.

City Clerk Howke reported 10 written comments were received, 9 comments oppose the application; Gary Aleshire (415 Kalispell Avenue), Christine Bernat (306 Kalispell Avenue), Dane and Melanie Boat (240 Columbia Avenue), John Ellis (630 Somers Avenue), Molly Elm (521 Kalispell Avenue), Ian Hasson (560 Somers Avenue), Mrs. And Mr. Jones (411 Kalispell Avenue), Kate McMahon (151 Wedgewood Lane), and Doug and Nikki Reed (520 Somers Avenue); 1 comment supports the applications; Mike Howke (323 Kalispell Avenue). All written comments are appended to the packet on the website.

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 Hennen to deny WCUP 20-13.** Councilor Qunell applauds the applicant for trying to find a solution that would be amenable to the neighborhood and meet their needs. He does not see this fits in the code of the zoning regulations. Councilor Norton disclosed she attended a preliminary meeting. The project is too much for Kalispell Avenue. **The motion carried by roll call.**

**Mayor Muhlfeld moved for a recess at 9:20 pm and reconvened at 9:25 pm.**

**7) COMMUNICATIOIS FROM PARKS AND RECREATION DIRECTOR**

- a) **Consideration of appointing members to the Rating Panel and Selection Committee for the Armory Park Design RFP process (p.226)**

Director Butts gave her staff report that is provided in the packet on the website.

**Councilor Feury made a motion seconded by Councilor Hennen to appoint Director Butts, Foreman Bullemer, and Councilor Sweeney to the Rating Panel and the Selection Committee for the Armory Park Master Plan Design RFP process. The motion carried by roll call.**

**8) COMMUNICATIONS FROM CITY MANAGER**

a) [Written report](#) enclosed with the packet. **Questions from Mayor or Council? (p.230)**

None

**b) Other items arising between September 30th through October 5th**

City Manager Smith reported the American Flag was replaced this last weekend. The 2020 General Election will be all mail ballots. The ballots will be mailed October 9<sup>th</sup>. There is one polling place available at the Election Department in Kalispell. A drop off ballot box will be provided at City Hall October 9<sup>th</sup> – November 2<sup>nd</sup>, there will be two Election Judges available on November 3<sup>rd</sup> from 7:00 am to 8:00 pm to collect ballots.

Manager Smith shared a photo of a TempCheck, which is made by a Flathead County company, Hearthstone Designs. The CVB purchased 20 units as a pilot program through the Montana Safety Grant. City Hall will be provided two units. As you put your hand under it takes your temperature at the same time it squirts hand sanitizer into your hand.

COVID cases in Flathead County have increased, the Flathead County Health Department came out with press release stating there were 722 new positive cases in the last two weeks. The Crisis Communications team will be working on a PSA regarding COVID along with recommendation for Halloween. From a City standpoint, six employees have tested positive since March, 45 employees quarantined because of close contact, and 11 employees out due to childcare and school issues. That has put a big burden on Sherri, Human Resources Director. Manager Smith thanked Sherri for her work, she has had to a lot more paperwork. City Hall will remain closed to the Public through October 16<sup>th</sup>. Discussion followed between Council and Manager Smith to work with the other cities, hospitals to band together for messaging.

**9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS**

Council Comment

Councilor Norton is concerned with the Blackfeet Nation and the pandemic to keep families safe and thanked Manager Smith and Attorney Jacobs for their hard work through this pandemic. She also mentioned Mayor Muhlfeld who is unacknowledged frequently, he is in the frontline with staff and he does an amazing job and thanked him for his work.

Councilor Feury stated he does not think people understand the economic impact. His place of work had an employee test positive, it ended up with over a week's loss of revenues for the business, and a week's loss of wages for all employees. He does not think that people understand that what they do on their own private time really does affect so many people around them. He thanked staff and Council for their hard work and keeping our nose to the grindstone and hopefully we can continue to make a difference.

Councilor Qunell stated Kalispell Regional has been full for a couple of weeks now. Our local county health system is being overwhelmed. Schools are planning to reopen fully starting October 12th. He wonders if we need to reach out the people on Columbia Avenue and Kalispell Avenue to not offer candy on Halloween. Discussion followed between Council regarding that issue. City Manager will address that issue during the upcoming PSA.

**10) 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 9:53 p.m.

*/s/John Muhlfeld*

---

Mayor Muhlfeld

Attest:

*/s/Michelle Howke*

---

Michelle Howke, Whitefish City Clerk