

WHITEFISH CITY COUNCIL
October 18, 2021
SPECIAL SESSION AT 5:30 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, Feury, Qunell, Davis, and Norton. Councilor Hennen was absent. Staff present was City Clerk Howke.

2. Interview

City Council interviewed Lydia Fahrenkrug and Nathan Dugan for the Whitefish Climate Action Plan Standing Committee.

3. Public Comment

None

4. Appointments

Due to time constraints, Mayor Muhlfeld announced his appointment during the regular session.

5. Adjourn

Mayor Muhlfeld adjourned the meeting at 6:02 p.m. and opened the Work Session.

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk

WHITEFISH CITY COUNCIL

October 18, 2021

7:10 P.M.

1) CALL TO ORDER

Mayor Muhlfeld called the meeting to order at 7:20 p.m. due to the . Councilors present were Qunell, Feury, Davis, Sweeney, and Norton. Councilor Hennen 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 and Fire Chief Page. Approximately 30 people were in the audience and three participated via Webex.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Jake How 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)

Mayre Flowers, Citizens for a Better Flathead, provided comments related to the Hwy 93 S. Corridor and provided handouts of a proposed project as an example. She felt it is important to start to bring to Council's attention as these things come before you, issues with the highway corridor plan that need to be addressed. In the diagram she provided, she is concerned that it is not addressed if MDT decides to retain or take back right-of-way; the buffer area is also a snow storage area, and the corridor plan does not reference standards for snow storage; parking should not be between the front of the building and the highway corridor; there is not definition of a crossroad or backage road and doesn't know why this would be allowed under the Corridor Plan. She thinks it is these kind of details that really highlight the need to go back and look at what that plan will do and won't do. She feels a workshop is needed prior to the next public hearing.

Sean Frampton, 530 West 19th Street, on behalf of Whitefish 57 Hotel. He respects the Council and knows they have discretion. He knows the city has said by its zoning that a hotel is allowed in the proposed location; the planning report says the MDT reports at full buildout including a hotel there will be a minimal impact on the transportation system. There is no basis in the four findings Council might be considering tonight. It is all generalization; there is no evidence, there is no data, there is no study, and no traffic engineering. The staff report says it is compatible with the neighborhood. He asks the council to consider those thoughts tonight in their deliberation.

Joe Courtney, 535 Colorado Avenue stated it is too bad we lost the inclusionary housing. Whenever the city takes money in lieu of a developer providing the affordable housing that money should have automatically gone into a fund to buy land in which to build affordable housing. He doesn't see a record of that. There should be another half a percent tax, or a one percent tax levied on goods in the city like the resort tax to go towards a recycling program.

Jake How, 846 Highland Avenue, stated a possible solution or beginning of a solution to the employee housing problem would be for the Whitefish Convention and Visitors Bureau to change its bylaws temporarily for two years and take its three-quarters of a million-dollar annual budget and put a million and a half dollars of seed money for employee housing. Have a condition that the rooms are leased by the employers and sub-leased to the renters. Limit the number of units individual employees can rent so that small employers can rent spaces as well. He thinks the paid director of the Whitefish Convention

and Visitors Bureau should go on leave and work with the housing authority with his organizational skills and marketing skills.

Rhonda Fitzgerald, 412 Lupfer Avenue, stated she was on the WB-2 and WB-3 Committee that worked for years on appropriate uses in the different zones. At the time they were wrangling with the WB-2 because people were always trying to add more uses. Her understanding a Conditional Use Permit is a matter of grace. You didn't have a right to that use in the WB-2. A previous comment implied that it is a right if it is listed as possible with a CUP. That isn't how the Committee understood it at the time they were discussing uses in the WB-2 and the Wb-3.

4) COMMUNICATIONS FROM VOLUNTEER BOARDS

None

- 5) **CONSENT AGENDA** (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
- a) Minutes from October 4, 2021, Special Session (p.70)
 - b) Minutes from October 4, 2021, Regular Session (p.71)
 - c) Resolution No. 21-42; A Resolution declaring certain property to be unneeded and obsolete, and authorizing the disposal of such property (p.78)

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) Consideration of a request from Rimrock Companies, LLC, for a Conditional Use Permit to develop a hotel at 21 Hedman Lane, zoned WB-2 (Secondary Business District) (WCUP 21-19) **CONTINUED FROM 10/04/2021 PUBLIC HEARING CLOSED**(p.85)
 - i) Resolution No. 21-43; A Resolution denying a conditional use permit for an 85-room hotel at 21 Hedman Lane, Whitefish, Montana (p.81)

Senior Planner Wendy Compton-Ring presented her updated staff report that is provided in the packet on the website. She reported at the last hearing there were questions asked about the traffic study for the Whitefish 57 neighborhood plan versus the traffic study for this particular subdivision and specifically about this hotel. Those are two separate projects; the Whitefish 57 Neighborhood Plan was a 57-acre Growth Policy amendment. It was much larger than this smaller particular subdivision. This is a different project, different applicant with different uses. Montana Department of Transportation accepted the applicants traffic information. Staff is recommending approval.

Councilor Davis made a motion, seconded by Councilor Qunell to deny WCUP 21-19 and to adopt Resolution No. 21-43 denying a conditional use permit for an 85-room hotel at 21 Hedman Lane, Whitefish, Montana.

Councilor Davis made a motion, seconded by Councilor Norton to amend Resolution No. 21-43, Section 1a) Growth Policy Compliance: and the additional findings of fact supporting this state that the proposed project is not in compliance with the Growth Policy because the proposed project in this location does not match the scale, character, small town feel, and address the community needs and challenges as outlined in the City County Growth Policy. Councilor Davis stated if you ask the citizens of Whitefish does this proposed project match the communities vision in this location, he believes 99 of 100 would tell you no it doesn't. If we allow any hotel here does this mean, we will have a box hotel on every corner in Whitefish? He believes the project proposed is not in line with our community vision. Councilor Norton stated we are dealing with unprecedented housing

crisis. If we keep approving project that don't contribute to those solutions it will make it worse. This subdivision will be developed and will add to the traffic safety issues on Highway 93 South. Councilor Sweeney stated the prior traffic studies were flawed and considered an extension of Baker Avenue to accommodate much of the traffic that would come out of this development. Traffic is a disqualifying problem for the development of this particular parcel without an extension of Baker Avenue and with this higher use.

The original motion to deny WCUP 21-19 and motion to amend Resolution No. 21-43 carried.

- b) **Ordinance No. 21-16; An Ordinance approving the 38 Central Hotel Planned Unit Development to overlay Lots 6-10 of Block 27, to develop a three-story commercial building with a 40-suite boutique hotel including a bar and lounge at 38 Central Avenue, Whitefish (WPUD 21-01) (First Reading) (p.159)**

Planning and Building Director Dave Taylor presented his staff report that is provided in the packet on the website. Staff has received six letter of support and one letter opposing the project.

Councilor Sweeney asked and Director Taylor stated if they cannot provide parking the PUD would be void for not meeting all of the conditions. Councilor Davis asked and Public Works Director Workman stated the applicant proposed \$8,000 which was an order of magnitude more and will adequately address this project's portion of the restoration of the Riverside pond.

Mayor Muhlfeld opened the Public Hearing.

Sean Averill, developer, realize this is a high-profile corner. They realize there will be an impact, so the housing is what they anticipated as the biggest impact. That is where they came up with the donation in the 1%. In five years, the theory is maybe there is a different need, so they locked in for five years and see how it goes.

Becky Stone, Oz Architecture, presented to the Council the plans for the project. The underground parking will provide 42-stalls below grade, level one is the public space and level two and three are identical with hotel rooms and then the roof deck on the top. The roof deck is open to the public for part of it. The hot tubs would be for the hotel guests.

Councilor Norton has concerns of building an underground parking on highwater. She also asked about construction staging. Michael Freeman, Director of the Development stated they are in conversation with the Whitefish Housing Authority to use the snow lot and working with Alan Frankel with Dick Anderson Construction for all the logistics of the construction for this project. It is an ongoing process, but they will come up with a complete plan before they start. Mayor Muhlfeld asked, and Becky said the two stair cores and the two elevator shafts will go above the 35', similar to what we see at Casey's.

Jake How, 846 Highland Drive, opposes this project for two reasons; 1) quality of life of Whitefish, he doesn't see any benefit to the community and destroys the character of Whitefish; 2) these developers always get their way.

Shane Axhelm, 811 Railway Avenue, opposes this project. He doesn't want another project like this staged in his neighborhood. They don't get a good night's rest because of the noise. Development like this guts Whitefish of its character.

Joe Courtney, 535 Colorado Avenue, had concerns that 42-spaces for parking was enough to for workers and guests; and where the water and sewer connections were located; going up 45' feet it is setting a

precedence; and if the company is interested in helping affordable housing, they would offer that money outside of a building project.

There being no further 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 Davis to adopt [Ordinance No. 21-16](#); An Ordinance approving the 38 Central Hotel Planned Unit Development to overlay Lots 6-10 of Block 27, to develop a three-story commercial building with a 40-suite boutique hotel including a bar and lounge at 38 Central Avenue, Whitefish (WPUD 21-01) (First Reading). Councilor Sweeney stated an in-town hotel has been called out for in the Downtown Master Plan for a number of years. As a community it will exacerbate what is already a crowded downtown, but that was to be expected when the Downtown Master Plan was created.

Councilor Norton asked and staff said the \$8,000 funding would go towards the restoration of Riverside Pond; the off-site parking is a condition if on-site parking is not available; and the Downtown Master Plan identifies this location for a Boutique Hotel.

Councilor Qunell asked and Director Taylor stated the off-site parking would have to be in a location that it would be an allowed use. Councilor Qunell is concerned there is no back up plan for offsite parking. The proposal is the highest and best use of the property. That lot has been vacant and to put a hotel there that drive more commerce to the downtown core is not a bad idea. There is some significant public benefit with an ongoing commitment.

Councilor Feury made a motion, seconded by Councilor Sweeney to add condition #22, that no amplified or other live music is allowed on the rooftop deck. The motion carried.

Councilor Feury agrees this is the highest and best use for this property. We typically see downtown some amount of retail on the ground floor and very expensive short-term rental on the second floor. He doesn't want to see that on this lot. It is something we planned for in the Downtown Master Plan. It does put more pressure downtown but that is what we wanted. He is comfortable with the way the conditions are written for the parking; in the end they have to provide 42 usable spaces for this building.

Councilor Davis made a motion, seconded by Councilor Norton to amend condition #19 The applicant shall collect a perpetual 1% voluntary assessment from all goods and services sold by the hotel and restaurant for affordable housing. The assessment collected in any month are to be remitted as a donation to the Whitefish Housing Authority on or before the twentieth day of the following month, or if such day falls on a Saturday, Sunday, or holiday, then on the next business day. The motion carried.

Councilor Qunell made a motion, seconded by Councilor Sweeney to add condition #23 that no real estate offices or other professional offices shall be operated as street level storefronts within the building on either Central Avenue or East 1st Street. The motion carried.

The original motion to adopt Ordinance 21-16 as amended carried.

Mayor Muhlfeld called for a recess at 9:09 pm and reconvened at 9:20 pm.

- c) [Resolution No. 21-14](#); A Resolution approving fees for various services provided by the Planning & Building Department (p.246)

Senior Planner 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 Qunell made a motion, seconded by Councilor Feury to adopt [Resolution No. 21-14](#); A Resolution approving fees for various services provided by the Planning & Building Department. The motion carried.

d) [Ordinance No. 21-](#) ; An Ordinance amending Title 4 – Public Health and Safety, Chapter 2 – Solid Waste, of the Whitefish City Code (First Reading) (p.255)

Public Works Director Craig Workman presented his staff report that is provided in the packet on the website. He also presented his staff report for consideration to award the contract for Curbside Recycling Services. Council will vote separately on both items.

Councilor Qunell stated he did not see a fee schedule for contaminated materials in the contract. Director Workman stated fines for contamination would likely go into the code changes, rather than the contract. Councilor Norton asked and Director Workman stated the bid went out for a three-year contract. If we put it on hold and started a year later, we would likely begin with the second-year pricing and would need to be negotiated with Republic Services.

Mayor Muhlfeld opened the Public Hearing.

Joe Courtney, 535 Colorado Avenue, is against mandatory recycling. He suggests creating a 1% tax on services to help pay for the program.

Gail Linne, 106 Murray Avenue, provided a letter that is appended to the packet on the website. She is concerned with the bears that frequent the city. She does not oppose mandatory recycling but would like to see animal-resistant containers in place prior to initiating the recycling program.

Leo Keene, 514Pine Place, is in favor of staffing the central recycling site with the city selling subscriptions to those who are serious about recycling.

Mayre Flowers, Citizens for a Better Flathead, provided written comments that are appended to the packet on the website. Her letter provides best practices for resort mountain communities to deal with bears. She asks the Council to prioritize getting in place bear proof containers; put off curbside recycling for a year to address bear proof containers; and address safety and liability concerns. She asks the Council to table their decision tonight. Moving forward with the centralized recycling site allows the opportunity to educate the public.

Susan Okonsky, 1035 State Park Road, is not opposed recycling but is opposed to mandatory recycling. Her shop has a water meter and because it has a water meter, she is charged garbage fees that she never uses. If it is mandatory, is it only attached to bills that have water and sewer and not sprinkler bills? There are many ways for people to take care of their recycling if they really want without it being mandatory.

Reuben Castron, Citizens for a Better Flathead, suggested a few amendments to the contract and provided a handout that is appended to the packet on the website. The recommended changes to the contract attempt to address the issue of public education and outreach, financial obligations, and final destination of the recycled material. It is important the residents know what material is allowed and that the material needs to be clean of contaminated materials such as food waste before going into a recycling bin. He recommends amending to #9 of the contract; #13 of the contract; and Exhibit A: 2.8 of the contract. The second issue is the financial obligations, he recommends amending #13 of the contract;

and Exhibit A 2.1. The third issue is the final destination of materials, he recommends amending Exhibit A: 1.4 of the contract. He also recommends amendments to the City Code, section C.2 a-e, Preparation for Collection of Residential Recycling.

Matt Scinto, 135 Waverly Place, is opposed to mandatory recycling. He hauls his recycling to Pacific Steel where he gets paid for recycling. Not everybody recycles. \$7/month is a lot for those who are on a fixed income.

Nathan Dugan, 937 Kalispell Avenue, supports curbside recycling. He is sensitive to those who may not be able to afford the extra cost. He suggests the option for people to opt out if they are below a certain income threshold.

Allen Tays, 1226 2nd Street, opposes mandatory recycling.

Shane Axhelm, 811 Railway Street, appreciates the comments. He lives across the street from the Central Recycling Site. It is a disgusting eyesore. Regardless of what the Council does, please put it in a new location. Nobody asked them if they wanted it in their neighborhood. People are savages and dump anything there if you give them a chance.

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 postpone December 6, 2021. The motion carried.

7) COMMUNICATIONS FROM PUBLIC WORKS DIRECTOR

- a) **Consideration to award contract for Curbside Recycling Services (Staff report and contract are included in agenda item 6d) (p.265)**

Councilor Qunell made a motion, seconded by Councilor Norton to postpone to December 6, 2021. The motion carried.

Councilor Qunell made a motion, seconded by Councilor Norton to postpone to December 6, 2021. The motion carried.

8) COMMUNICATIONS FROM CITY MANAGER

- a) **Written report enclosed with the packet. Questions from Mayor and Council? (p.331)**

Councilor Norton asked and Manager Smith updated the Council on her radio interview regarding the Resort Tax ballot language. Currently the Resort Tax provides property tax relief, funding for streets, parks, and bike paths; and new item added with the Whitefish Trail. The extension is for 20-years and does not prohibit changes in the future should an idea like transportation or affordable housing become a solid plan going back to the voters.

- b) **Other items arising between October 13th through October 18th**

None

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) **Consideration of appointments to volunteer boards and committees not made during the Special Session preceding tonight's meeting**

Mayor Muhlfeld, with ratification from the Council, appointed Lydia Fahrenkrug to the Climate Action Plan Committee, term ending December 31, 2023.

Councilor Comments

Councilor Norton reminded the citizens they can drop their ballots at the City Hall. The Election Department will provide Election Judges on November 2nd.

After some discussion Council supports a letter from Director Workman and Mayor Muhlfeld to draft a letter to Montana Department of Transportation regarding the Downtown Highway Project and their opposition to their preferred plan of Option C.

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 10:31 p.m.

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk