

WHITEFISH CITY COUNCIL
SPECIAL SESSION
October 26, 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, Davis, Sweeney, and Norton. City Staff present were, City Clerk Howke, City Manager Smith, City Attorney Jacobs, Police Chief Dial, and Assistant Police Chief Kelch. Approximately 52 people attended remotely.

Mayor Muhlfeld asked Assistant Police Chief Kelch to lead the audience in the Pledge of Allegiance.

- 2) 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. 20-16](#); An Emergency Ordinance establishing restrictions upon businesses to help limit the spread of COVID-19 (Only Reading)

Mayor Muhlfeld read Emergency Ordinance No. 20-16.

Tamalee Robinson, Flathead City-County Health Department (FCCHD) Public Health Officer, supports the proposed Emergency Ordinance. She reported currently there are 16 people in the hospital, eight are Flathead County residents. Kalispell Regional currently has patients from Browning, Hamilton, Butte, Glasgow, and Malta, due to hospitals around the state not having the capability to accept new patients. Currently there are 3,084 cases, 651 active cases, 26 deaths, and 24 cases in the Whitefish schools. The FCCHD have 33 temp workers and 11 full-time staff working on COVID. Discussion followed between Councilors and Officer Robinson. The turnover on testing is normally in 24 hours, school cases are in the same day. Right now, they are about 80 cases behind. For each case they do an average of five to six contacts, school cases they do up to ten to fifteen contacts and taking those kids out of school. The state lab expanded the testing capability to Kalispell Regional Hospital, giving them the ability to test 800 to 1,000 tests a day. The positivity rate in the valley is 13%. The schools are doing a great job with kids wearing masks and sanitizing, the activities that the school kids are taking part in outside of the school walls; slumber parties, team parties is where the school cases are coming from. Big spreaders are weddings, bachelor and bachelorette parties, dinner parties. A person is contagious two days before having signs and symptoms. What is also driving the numbers up is the ability of testing, whole families are being tested, so not uncommon of having four or five positives in one family. The younger community (20s to 40s) are carrying the virus in the community. Staff in bars and restaurants work together, hang out together after hours or work in multiple establishments. There have been big outbreaks in that age range of workers. The establishments that have staff test positive have to close doors because they do not have enough staff or do a deep cleaning. They try to determine if a positive had an accumulative contact with one person for 15 minutes. The FCCHD enforcement comes through a complaint system on their website, the environmental staff access the complaints, five complaints from five different people trigger the staff to call the business and do education, a letter is written to the business, and then an onsite visit, and then turn the complaint over to the County Attorney for legal action. The County Attorney has not done any legal action to date. Flathead County is getting some the money released from the Governor to help with enforcement and they are seeking out COVID Education

Liaison such as Yellowstone County has. The Liaison would manage the complaints from the state level, responding to those complaints, putting them in the County's current database and then carry out the process reported earlier.

Discussion followed between Council and staff. The penalty can be up to \$500 and assessed to businesses not individuals.

Mayor Muhlfeld opened the Public Hearing.

Betsy Kohnstamm, 573 Somers Avenue, supports the proposed ordinance.

John Middleton, 1285 Lion Mountain Drive, supports the proposed ordinance.

Megan Chaisson, 704 Cedar Street, supports the proposed ordinance.

Amy Boring, 123 Colorado Avenue, supports the proposed ordinance.

Lauren Oscilowski, Spotted Bear Spirits, 503 Railway, as a business owner is concerned, we can implement further restrictions, but it will not make a difference if it is not enforced. She is curious to see the percentage of the spread coming from Whitefish. She feels Whitefish businesses are doing a good job following the directive but does not see that in Columbia Falls or Kalispell. Enforcing these regulations to target a couple of bars on a weekend will impact small businesses. Restaurants that are not open in the evening are going to have to further restrict. She encourages the Council to look at the problem holistically and what possible restrictions there are to implement. If going to 50% capacity and not enforcing it is going to solve any of the problems and make an impact on the spikes we are seeing.

Rhonda Fitzgerald, 412 Lupfer Avenue, supports the proposed ordinance. She encourages enforcement and find ways to fund the businesses.

Jodi Petlin, Shanti Yoga, 235 Central Avenue, supports the proposed ordinance. They have turned all public classes into Zoom classes.

City Clerk Howke reported 220 emails were received under three categories; (73) anti-masking mandate addressed to the county; (56) addressing emergency ordinance on the agenda, 73% were in favor of the proposed ordinance; and (91) regarding the public hearing scheduled for November 2nd.

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

Councilor Norton made a motion, seconded by Councilor Qunell to adopt [Ordinance No. 20-16](#); An Emergency Ordinance establishing restrictions upon businesses to help limit the spread of COVID-19 (Only Reading). Councilor Norton feels more restrictions are needed to go into the winter months to help prevent the spread.

Discussion followed between Council and staff. Halloween has the potential to be a super spreader event. There are concerns of creating more to gather outside when capacity is met inside. The proposed ordinance is not overly restrictive, the businesses are not promoting the annual costume contest and communication is scheduled through all avenues. The businesses that are not following the directive are responsible for the outbreak of cases.

Councilor Sweeney made a motion, seconded by Councilor Davis to amend Section 3: Restaurants, bars, breweries, distilleries, and casinos must operate at no more than ~~50%~~75%

capacity, depending on the business's ability to maintain social distancing, during the dates of October 30 and October 31, 2020. Councilor Sweeney does not want to punish businesses that are following the Governor's directive by reducing the capacity to 50%. Councilor Norton supports remaining at 50%, current capacity is 75% and people are drinking and partying. Councilor Qunell supports remaining at 50%, people go to have a good time at Halloween, not to sit down and have dinner. Councilor Davis supports the amendment, it is not about the percentage, as it is getting businesses to comply with the regulations. Councilor Feury supports the amendment, businesses that are not bars and are not having a massive influx of partiers, 50% further restricts smaller businesses. **The motion carried 5-1, Councilor Norton voting in opposition, by roll call.**

Further discussion followed between the Council. Councilor Hennen agreed the businesses in Whitefish are trying to comply with ever-changing guidelines and restrictions and are doing a really great job. Unfortunately, there are a few businesses that are not following the Governor's directive. He does not think there is any financial relief coming. It is a tough decision when thinking about all the people that work in the bars and restaurants and rely heavily on tips. He feels bars and restaurants are a scape goat and does not see solid evidence they are the cause of the outbreak. Manager Smith stated with this ordinance, since it is just for two days, the Police Department will be enforcing and shut down businesses if they will not close. Capacity is a challenge but doing a walk through and checking to make sure people are socially distancing is a possibility. If they notice an issue, they will assist in issuing a municipal infraction that will go through our court process for any fines or penalties to be determined by the Judge. Councilor Davis is frustrated by the situation. The statistics are shocking. This emergency ordinance is a balanced way to deal with a difficult weekend. He hopes folks will be safe, thoughtful, and help to keep the weekend safe for everybody in the community. Councilor Norton stated this is a health crisis and a financial bind. It is about keeping our citizens alive and healthy.

The original motion to adopt Emergency Ordinance No. 20-16 carried 5-1, as amended. Councilor Hennen voting in opposition.

3) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

Manager Smith asked for clarification for what the Council would like to see included in the packet for November 2nd. Mayor Muhlfeld would like to know what our charter powers allow as a city when placing additional restrictions on the Governor's directive. We need to look at the enforcement aspect of those additional restrictions.

4) 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 9:20 p.m.

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk