

WHITEFISH CITY COUNCIL

November 6, 2023

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 Attorney Jacobs, Finance Director Gospodarek, Planning and Building Director Taylor, Public Works Director Workman, Parks and Recreation Director Butts, Police Chief Kelch, Fire Chief Hadley, and Human Resource Director Baccaro (virtual). Approximately 45 people were in the audience and two attended virtually.

2) PLEDGE OF ALLEGIANCE

Mayor Muhlfeld asked Sean Frampton 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)

Chris Schustrom, Whitefish Shines, invited the Council, staff and members of the community to help placing the holiday decorations on Sunday, November 19th. Volunteers can meet at the corner of 3rd Street and Central Avenue at 8:15 a.m.

Nancy Schuber, 110 Bay Point Drive, spoke about an upcoming project and referred to the City of Whitefish Ethics and Conflict of Interest Policy, Section 6, and Section 3. She stated Councilor Davis donated \$250 to fund campaigns of Councilor Qunell and Councilor Sweeney. Councilor Qunell, as Planning Board Chair, voted in favor of the Edgewood Place Project with Councilor Davis as name of record. She sees this as a violation of ethics and conflict of interest.

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 16, 2023, Regular Meeting (p.42)
- b) [Ordinance No. 23-23](#); An Ordinance adopting amendments to the City's Impact Fee Ordinance (Second Reading (p.47)
- c) [Ordinance No. 23-24](#); An Ordinance adding a new Chapter 19 to Title 2 of the Whitefish City Code to establish the Whitefish Community Housing Committee as a standing committee (Second Reading) (p.154)

Councilor Sweeney made a motion, seconded by Councilor Caltabiano to approve the Consent Agenda. 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) [Resolution No. 23-37](#); A Resolution to annex and incorporate within the boundaries of the City of Whitefish by petition and consent of the property owner approximately 11.63 acres of land known as Tract 1 of COS 10316, addressed as 5975 Highway 93 South in Section 12, Township 30 North,

Range 22 West, subject to three conditions, to approve an Annexation and Development Agreement, and to zone the property to WB-T (Business Transitional District) POSTPONED FROM 10/02/2023 PUBLIC HEARING OPEN (p.159)

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

Mayor Muhfeld opened the Public Hearing.

Alberto Valner, applicant, stated he thought the city and staff were the perfect example of working together and asked that Council to approve this Resolution.

Sean Frampton represents Mr. Bauer, owner of the property. They ask that the Resolution be recorded after the sale is final, which is scheduled to close on December 6th. If for some reason, the sale fails, the annexation does not go through.

Tom Thomas, Point of View Ranch, Five Star Realty, asked that Council not annex this property if it didn't close on December 6th or 30 days after approval of the resolution.

Jerry LaPrath, 195 Sapphire Court, President of Emerald Heights HOA is concerned about the total number of people this would bring to the area. He stated he has only seen total units or family numbers and he is asking about the number of individuals in total this would be. He is concerned about the roads, which their HOA pays for, and who would help pay for the additional usage besides them.

Dan Clark, 268 Luge Lane, stated he is in support of this Resolution.

Mayre Flowers, Citizens for a Better Flathead provided new comments to staff and Council, that is appended to the packet on the website. She voiced her concern about not having access to the transportation study that was done and thinks the public should have access to this as well. She also commented on Senate Bill 245 and made additional comments on this Resolution that are addressed in her letter.

Arthur Mayor stated he purchased property in the new Trailview subdivision. Many of his neighbors that live there are teachers, police officers, restaurant workers, and others who work in Whitefish. This is the element of people in this kind of housing. These people work for a living, not people sitting around smoking weed.

Nathan Dugan, 937 Kalispell Avenue, President of Shelter WF. They are in support of this Resolution.

Mac Five, 6005 St. Moritz Drive stated he is in support of this Resolution.

John Brueggeman, 840 Birch Pt. Dr., is in support of this Resolution.

There being no further public comment. Mayor Muhfeld 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. 23-37](#); A Resolution to annex and incorporate within the boundaries of the City of Whitefish by petition and consent of the property owner approximately 11.63 acres of land known as Tract 1 of COS 10316, addressed as 5975 Highway 93 South in Section 12, Township 30 North, Range 22 West, subject to

three conditions, to approve an Annexation and Development Agreement, and to zone the property to WB-T (Business Transitional District).

Councilor Caltabiano made a motion, seconded by Councilor Sweeney to request the Resolution with the Development Agreement be recorded after 30-days of approval, and record the Resolution with the Agreement and then also record the Agreement separately. The motion carried.

The original motion to approve Resolution No. 23-37 carried.

- b) [Ordinance No. 23-25](#); An Ordinance rezoning 808 & 830 Edgewood Place in Section 25, Township 31 North, Range 21 West, P.M., M., Flathead County, Montana, zoned WLR (One-Family Limited Residential District) to WR-2 (Two-Family Residential District) and adopting findings with respect to such rezone (WZC 23-05) (First Reading) (p.348)
- c) [Ordinance No. 23-26](#); An Ordinance approving the 808 Edgewood Residential Planned Unit Development to develop 24 units in two buildings on 1.66 acres at 808 & 830 Edgewood Place, Whitefish (WPUD 23-02) (First Reading) (p.425)

Councilor Davis recused himself and stepped down from the dais.

Senior Planner Wendy Compton-Ring presented agenda item 6b and 6c as one staff report. Her staff report is provided in the packet on the website.

Mayor Muhlfeld opened the Public Hearing.

Eric Mulcahy, Sands Surveying, representing the applicant. They agree with the recommended conditions of approval. They are using the Planned Unit Development (PUD) to blend the two zoning districts to create a more cohesive project in a neighborhood that has a mix of residential types. The PUD also allows them to take advantage of the density bonus provisions in exchange for the Legacy Housing Program (LHP). This is an infill project, and they recognize the compatibility issues and the single-family neighbors who might not view this as being compatible.

Brandon Theis, Robert Peccia and Associates addressed the drainage concerns. There will be a stormwater pond on site, to treat the stormwater and then taken out to a new storm drain on Edgewood Place. The parking plan has a landscaping island every ten stalls for the exterior parking. There are 35 enclosed stalls that will be tucked underneath the building. They will be providing fencing outlining the project and around 824 Edgewood Place.

David Koel, Cushing Terrell stated this is a great location. Density downtown is important. The density is pushed to the north away from the single-family neighbors. They reduced the appearance of parking by providing units with garage parking. These units are one- and two-bedroom units.

Marjorie UY, 824 Edgewood Place, stated she has concerns with the location of the project. She understands the need for housing. She asks the Council to consider the neighbors when making their final decision.

Kelly Medelman, 800 Edgewood Place, stated she will be surrounded by driveways and development. She would like trees or shrub placed between the proposed project driveway and her driveway. She has concerns of the snow removal and water from the retention pond flowing into her yard.

Richard Hildner, 104 5th Street, speaking on behalf of Flathead Families for Responsible Growth. He is not in opposition of the proposed project. It is here to draw the limitations of the traffic impact study associated

with this and by extension similar projects under construction or planned north of the viaduct. Each project adds pressure to the Baker Avenue/Wisconsin Avenue corridor. He states it is time to address the inadequacies of the transportation infrastructure. He urges the Council to act on this issue.

Nathan Dugan, 937 Kalispell Avenue, Shelter WF President supports this 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 Caltabiano made a motion, seconded by Councilor Sweeney to approve [Ordinance No. 23-25](#); An Ordinance rezoning 808 & 830 Edgewood Place in Section 25, Township 31 North, Range 21 West, P.M.,M., Flathead County, Montana, zoned WLR (One-Family Limited Residential District) to WR-2 (Two-Family Residential District) and adopting findings with respect to such rezone (WZC 23-05) (First Reading). The motion carried, with Councilor Davis recusing himself.

Councilor Caltabiano made a motion, seconded by Councilor Sweeney to approve [Ordinance No. 23-26](#); An Ordinance approving the 808 Edgewood Residential Planned Unit Development to develop 24 units in two buildings on 1.66 acres at 808 & 830 Edgewood Place, Whitefish (WPUD 23-02) (First Reading).

Councilor Norton made a motion, seconded by Councilor Sweeney to add condition #10, no basements to be built. The motion failed on a tied vote, Mayor Muhlfeld breaking the tie.

The original motion to approve Ordinance No. 23-26 carried.

Mayor Muhlfeld called for a recess at 8:54pm and reconvened at 9:04pm.

- d) [Resolution No. 23-38](#); A Resolution to annex and incorporate within the boundaries of the City of Whitefish by petition and consent of the property owner approximately 2.33 acres of land known as 270 Lake Park Lane in Section 26, Township 31 North, Ranch 26 West, in Whitefish, Montana, and zone the property to WR-2, (Two-family Residential District) subject to two conditions based on the findings of fact in the staff report (WAR 23-04) (p.523)

Planner 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 City Council for their consideration.

Councilor Qunell made a motion, seconded by Councilor Norton to approve [Resolution No. 23-38](#); A Resolution to annex and incorporate within the boundaries of the City of Whitefish by petition and consent of the property owner approximately 2.33 acres of land known as 270 Lake Park Lane in Section 26, Township 31 North, Ranch 26 West, in Whitefish, Montana, and zone the property to WR-2, (Two-family Residential District) subject to two conditions based on the findings of fact in the staff report (WAR 23-04). The motion carried.

- e) [Ordinance No. 23-27](#); An Ordinance consolidating the Board of Adjustment, Planning Board, and Zoning Commission into a single Community Development Board per Senate Bill 130, and amending §2-3, Board of Adjustment; §2-10-3, Architectural Review Committee, Membership; §2-15, Whitefish Planning Board; §11-2-3, Use Regulations; §11-3-14, Lots; §11-3-25, Outdoor Lighting Standards, §11-3-29, Water Quality Protection, §11-7-3, Zoning Administrator, §11-7-5, Board of

Adjustment; §11-7-6, Appeals; §11-7-7, Variances; §11-7-8, Conditional Use Permits; §11-7-9, Zoning Compliance Permit; §11-7-10, Water Quality Protection Permitting and Review; §14-4-7, Floodplain – Appeals; and §14-4-8, Floodplain – Variances, of the Whitefish City Code (WZTA 23-09) (First Reading) (p.539)

Planning and Building Director Dave Taylor 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 Qunell made a motion, seconded by Councilor Sweeney to adopt [Ordinance No. 23-27](#); An Ordinance consolidating the Board of Adjustment, Planning Board, and Zoning Commission into a single Community Development Board per Senate Bill 130, and amending §2-3, Board of Adjustment; §2-10-3, Architectural Review Committee, Membership; §2-15, Whitefish Planning Board; §11-2-3, Use Regulations; §11-3-14, Lots; §11-3-25, Outdoor Lighting Standards, §11-3-29, Water Quality Protection, §11-7-3, Zoning Administrator, §11-7-5, Board of Adjustment; §11-7-6, Appeals; §11-7-7, Variances; §11-7-8, Conditional Use Permits; §11-7-9, Zoning Compliance Permit; §11-7-10, Water Quality Protection Permitting and Review; §14-4-7, Floodplain – Appeals; and §14-4-8, Floodplain – Variances, of the Whitefish City Code (WZTA 23-09) (First Reading). The motion carried.

- f) [Ordinance No. 23-28](#); An Ordinance amending Zoning Regulations Title 11, Chapter 3, Section 23, Vendors, and Chapter 9, Section 2, Definitions, of the Whitefish City Code (WZTA 23-10) (First Reading) (p.650)

Planning and Building Director Dave Taylor presented his staff report that is provided in the packet on the website.

Councilor Sweeney had concerns of the trash that might line the streets and sidewalks away from the vending site. He asked staff if there was a way to incorporate a requirement that the vendors participate in the downtown sidewalk cleaning program.

Mayor Muhlfeld opened the Public Hearing.

Andre Scuzzman, 1035 2nd Street East, supports this amendment to the regulations.

Daniel Trussel, 804 10th Street, supports this amendment to the regulations, and stated this amendment could be the solution to the trash in the downtown area from previous vendors.

Marshall Hegler, 419 Colorado Avenue, supports this amendment to the regulations.

There being no further 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 Qunell to adopt [Ordinance No. 23-28](#); An Ordinance amending Zoning Regulations Title 11, Chapter 3, Section 23, Vendors, and Chapter 9, Section 2, Definitions, of the Whitefish City Code (WZTA 23-10) (First Reading). The motion carried.

7) COMMUNICATION FROM PUBLIC WORKS DIRECTOR

- a) [Consideration](#) to approve the conceptual design for Karrow Avenue and authorize staff to proceed with final design and bidding (p.663)

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

There was discussion pertaining to the trees and streetlights. Some of the trees will be removed but not all. The streetlights provide safety for bicyclists/pedestrians and calms traffic.

Councilor Caltabiano made a motion, seconded by Councilor Qunell to approve the conceptual design for Karrow Avenue and authorize staff to proceed with final design and bidding. The motion carried.

8) COMMUNICATIONS FROM CITY MANAGER

- a) [Written report](#) enclosed with the packet. Questions from Mayor and Council? (p.686)

None

- b) Other items arising between November 1st through November 6th.

None

- c) [Resolution No. 23-39](#); A Resolution adopting a revised Personnel Policy (p.697)

Human Resource Director Sherri Baccaro was in attendance virtually and presented her staff report that is provided in the packet on the website. Staff is asking for direction from the Council regarding alternative language in the policy:

Councilor Caltabiano made a motion, seconded by Councilor Sweeney to adopt [Resolution No. 23-39](#); A Resolution adopting a revised Personnel Policy, including the language *For those employees who are scheduled for shifts longer than eight hours, holiday time will only be paid for eight hours. The hours over eight must be accounted for by the employee either working additional hours on a different day during the week the holiday is recognized or using compensatory time or vacation leave. Example: a full-time employee scheduled to work ten (10) hours on a holiday would earn eight (8) hours holiday time and then work the additional two (2) hours on other days during the same week or use two (20 hours of compensatory time or vacation leave. This section will apply to employees hired after November 6, 2023, as proposed by staff. The motion carried.*

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

Council Comments

Councilor Norton reported she had talked with FWP Bear Management Specialist. There are reports of bears in Whitefish. Councilor Norton also provided information regarding snow removal on sidewalks. Property owners are responsible for removing snow and ice on sidewalks adjacent to their property. Snow should be removed by ~~10:00 am~~ [12:00 pm](#) following a snow event. [\(Staff recommends referring to WCC 7-2-2 for better clarification\)](#) Properties that are not in compliance will be notified and given time to clear their sidewalks. The City has contracted with a contractor to remove snow. The property owner is responsible to pay the charges incurred by the contractor.

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 10:22 p.m.

/s/John Muhlfeld

Mayor Muhlfeld

Attest:

/s/Michelle Howke

Michelle Howke, Whitefish City Clerk