



February 10, 2010

The Honorable Mayor Jenson and City Councilors  
City of Whitefish  
Whitefish, Montana

Mayor Jenson and City Councilors:

**Tuesday, February 16, 2010 City Council Agenda Report**

The meeting is on Tuesday because of Presidents' Day holiday on Monday, February 15<sup>th</sup>.

There will be a special session for interviews beginning at 5:30 p.m. There will be a work session with the Whitefish Convention and Visitors Bureau and on the Temporary Vendor Ordinance beginning at 6:00 p.m. As we are beginning prior to 6:00 p.m., we will provide food for the work sessions.

The regular Council meeting will begin at 7:10 p.m.

**CONSENT AGENDA**

- a) Minutes from the February 1, 2010 Council meeting (p. 1)
- b) Ordinance No. 10-05; An Ordinance approving an amendment to the Whitefish Sign Code for temporary signs of businesses affected by a City infrastructure project (2<sup>nd</sup> Reading) (p. 19)
- c) Ordinance No. 10-06; An Ordinance adopting an amended Planned Unit Development Overlay for the Viking Creek Subdivision (2<sup>nd</sup> Reading) (p. 21)

**RECOMMENDATION:** Staff respectfully recommends the City Council approve the consent agenda.

**Items 1 and 2 are legislative items. Item 3 is a quasi-judicial matter.**

**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)

- a) Ordinance No. 10-03; Continuation of public hearing on an Ordinance adopting amendments to the City's Impact Fee Ordinance (1<sup>st</sup> Reading) (p. 26)  
Since approximately 1986, the City has charged "impact fees" when customers hooked up to the City water and/or sewer system. They were formerly called "plant investment fees," rather than impact fees, but they had an identical purpose. At the

time, state law allowed charter cities to impose water and/or sewer impact fees, although there was no state legislation authorizing non-charter cities to adopt them. Nor was there state legislation authorizing other types of impact fees.

In 2005, the legislature adopted a comprehensive impact fee law, which identified the types of fees that could be adopted, detailed the procedure that cities and counties must use for adoption, and identified the types of studies and information upon which the fees must be based. After the new state law was adopted, the City hired a consultant, Randy Young, of Henderson, Young and Company, to assist the City in developing a new impact fee ordinance. That ordinance was enacted in 2007.

After adoption, we discovered that the Ordinance did not apply at all to existing properties that are remodeled and expanded. Although the following is an extreme example, someone could take a 750 square foot house with one bathroom and expand it into a 4,000 square foot house with six bathrooms, and they would not have to pay any water or sewer impact fees. That was not what the City originally intended. As we began reviewing the Ordinance with this issue in mind, a number of potential, minor amendments came to mind. The current proposed revisions are the product of several meetings over a number of months. The City's Impact Fee Advisory Committee reviewed and recommended these changes to the ordinance at their meeting last fall.

The specific revisions are discussed in John Phelps' attached staff report, however, the changes are fairly minor in scope. The Impact Fee Advisory Committee did request that the exemption for city projects be stricken from the ordinance and the city projects pay impact fees as do all private projects. As I concur with that philosophy and we did impose impact fees on the Emergency Services Center, staff supports that change as well.

**RECOMMENDATION:** Staff respectfully requests the City Council consider testimony at the public hearing and the Impact Fee Advisory Committee's recommendation and approve first reading of an Ordinance adopting amendments to the City's Impact Fee Ordinance.

**This item is a legislative matter.**

- b) Ordinance No. 10-\_\_\_; Zoning text amendment - A request by the City of Whitefish for consideration of an amendment to chapter 2 of the Whitefish zoning jurisdiction regulations to add Article W, WA-5 (Agricultural District – 5 acre); Article X, WA-10 (Agricultural District – 10 acre); Article Y, WA-20 (Agricultural District – 20 acre) and Article Z, WA-40 (Agricultural District – 40 acre). The proposed amendments would create four new rural zoning districts to provide for a variety of rural densities and implement the adopted growth policy. In addition, rename the existing WA (Agricultural District) to WA-15 (Agricultural District – 15 acre) (WZTA-09-50) (First Reading) (p. 51)

Both the Rural and Rural Residential Land Use Designations in the 2007 Growth Policy call for densities and designations that currently do not exist within the Zoning Regulations. In order to implement the Growth Policy, these new zone types need to be created to match the existing county zones within our planning jurisdiction. The creation of these zoning districts does not rezone any properties, it only creates the zoning district within the Regulations of Title 11, Chapter 2. This is the same process that was followed with the creation of the WBSD zoning designation as implementation of the Growth Policy. The proposed zoning districts match the existing County zones with a few exceptions, as noted in the description of each portion of the staff reports. As they are not included in our Title 11 zoning code, zones like the SAG-5 cannot be modified or improved by the city until they are changed to a WA-5 designation. At some point in the near future, the city will need to swap out the county zones for the Whitefish zones to provide more flexibility.

**Planning Board Recommendation:** The Whitefish City-County Planning Board held a public hearing on January 21, 2010. Following the hearing, the Planning Board recommended unanimous approval of the above referenced text amendments and adopted the findings of fact contained within the staff report (Meckel and Crittenden absent). The Planning Board made specific changes to allow private recreational facilities as a conditional use in each zoning district. Staff noted after the meeting that they were already conditionally allowed in the WA-40 and WA-20 zones and used similar language in the other zoning districts in the attached draft, adding it after golf courses and driving ranges. The Planning Board also made an amendment to remove rifle ranges as an allowed use in the WA-40.

**City Staff Recommendations:** Staff recommends approval of the above referenced text amendments.

**Public Hearing:** No public testimony was given. The draft minutes for this item are attached as part of this packet.

Planning and Building Director Dave Taylor has a full staff report in the packet.

**RECOMMENDATION:** Staff respectfully requests the City Council consider the public testimony, the staff recommendation, the Planning Board recommendation and if appropriate, approve the Ordinance based on the Findings of Fact in staff report WZTA-09-50.

**This item is a legislative matter.**

#### COMMUNICATIONS FROM PLANNING AND BUILDING DIRECTOR

- a) Resolution No. 10-\_\_\_; A Resolution approving and adopting the Whitefish Transportation Plan 2009 as an addendum to the Whitefish City-County Growth Policy (p. 95)

The revised Transportation Plans were returned from the consultant with the changes requested and approved by the City Council. The City Council approved the Resolution of Intention to adopt the Transportation Plan on January 19<sup>th</sup>. The original staff report which is referenced in the Resolution is attached to the Resolution.

**RECOMMENDATION:** Staff respectfully recommends the City Council adopt A Resolution approving and adopting the Whitefish Transportation Plan 2009 as an addendum to the Whitefish City-County Growth Policy.

**This item is a legislative matter.**

#### COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 102)
- b) Other items arising between February 10<sup>th</sup> and February 16<sup>th</sup>
- c) Approve a job description and recruitment advertising plan for City Attorney hiring (p. 107)

At their meeting of February 1<sup>st</sup>, the City Council approved proceeding with the hiring of an in-house City Attorney and not using the services of a search firm. The next step is to approve a job description, advertisement, and advertisement schedule.

A draft job description is attached. Also attached is a draft job advertisement which can be tailored to each different publication. A full staff report is attached in the packet.

**RECOMMENDATION:** Staff respectfully recommends the City Council edit as needed and approve a job description for the City Attorney hiring and advise us on the advertising desired for the position.

**This item is a legislative matter.**

- d) Resolution 10-\_\_; a Resolution indicating the City Council's support of and partnership with the 2010 census (p. 115)

The Census Bureau requested that we adopt the attached resolution to show support for the Census and to increase awareness of the upcoming 2010 Census.

**RECOMMENDATION:** Staff respectfully recommends the City Council adopt a Resolution indicating the City Council's support of and partnership with the 2010 census.

**This item is a legislative matter.**

COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Discussion of Mrs. Spoonover's lawsuit – Chris Hyatt (p. 117)
- b) Discussion of initiating changes to the sign code to address the cause of Mrs. Spoonover's lawsuit – Chris Hyatt (p. 135)

Chris Hyatt sent an email with some proposed language changes in order to begin the discussion. This email is in the packet.

- c) Letter from Mary Person regarding the doughnut area (p. 136)

ADJOURNMENT.

Sincerely,

Chuck Stearns  
City Manager