

# OFFICE OF THE CITY ATTORNEY



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November 16, 2010

Ms. Darlene Staffeldt  
Montana State Librarian  
Montana State Library  
PO Box 201800  
Helena, MT 59620-1800

*RE: Whitefish Community Library*

Dear Darlene:

As requested, we enclose a copy of Resolution No. 10-48, a Resolution establishing the Whitefish Community Library, unanimously adopted by the Whitefish City Council at last night's City Council meeting, and Ordinance No. 10-19, an Ordinance creating the Board of Trustees for the Whitefish Community Library, which unanimously passed first reading at the same meeting. It is anticipated that the City Council will approve Ordinance No. 10-19, second reading, at the next City Council meeting on December 6, 2010. As a result, the attached public notice announcing the available trustee positions and December 6th scheduled interviews will be published in the *Whitefish Pilot*.

We will continue to keep you informed of our progress. Thank you again for your kind assistance.

Sincerely,

A handwritten signature in blue ink that reads "Mary".

Mary VanBuskirk

MVB/klh  
Enclosures

cc: Mike Jenson, Mayor  
Phil Mitchell, City Councilor  
Chuck Stearns, City Manager  
J. Stuart Segrest, Assistant Attorney General (w/enclosures)  
Whitefish Ad Hoc Library Committee (w/enclosures)

**RESOLUTION NO. 10-48**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA,  
ESTABLISHING THE WHITEFISH COMMUNITY LIBRARY.**

WHEREAS, since 1926 the City of Whitefish maintained an independent city library and approved its own mill levy within the City to support the public tax-supported library; and

WHEREAS, on August 2, 1976, the City of Whitefish entered into an Agreement with Flathead County regarding the operations of the Whitefish Library and lease of the Whitefish City Library location to the County. Flathead County has imposed a County Library mill levy on the City residents in support of the County library program; and

WHEREAS, in 1998 the Whitefish community raised almost \$908,000 to build a 9,700 square foot library building, that was donated to the City. The City contributed almost \$1,100,000 by providing the site, dedicated parking, landscaping and infrastructure and has since provided building insurance, maintenance, repair and utilities to the library; and

WHEREAS, in the fall of 2009, Whitefish area residents, library patrons, and volunteers approached the City Council and requested a review of the Whitefish Library status as part of the Flathead County Library System. The Ad Hoc Committee requested the opportunity to study several alternatives and to return with a report outlining its findings, alternatives, and recommendations for the City Council's deliberation on the future of the Whitefish Library. With the demonstrated support from the community, the City Council directed the Ad Hoc Committee to proceed with its analysis of the various options available to the City and report back to the City Council; and

WHEREAS, the Ad Hoc Committee conducted its study and prepared an extensive report for the City Council, *The Future of the Whitefish Library – Our community's Window on the World 2010 and Beyond*, on April 26, 2010, which analyzed five different alternatives and recommended alternative three:

Based on all of our research and analysis done to date, the committee recommends the City of Whitefish take the necessary steps to terminate the agreement with FCLS and assume management responsibility for the Whitefish Library; and

WHEREAS, the City Council reviewed the Ad Hoc Committee's report with its recommendation that the City re-establish its own public library for the community of Whitefish and end the City's relationship with the Flathead County Library system. The City Council decided to seek an Attorney General's Opinion whether the City would have the ability to exempt City residents from the County mill levy and re-establish a City levy to support its independent library out of fiscal concern for the financing of the independent library should the City withdraw from the County Library system; and

WHEREAS, on April 1, 2010, the City requested such an Attorney General Opinion and on October 18, 2010, Steve Bullock, Montana Attorney General, issued his formal

opinion that the City may create its tax-supported public library and exempt property within the City limits from the County library tax levy under § 22-1-313, MCA; and

WHEREAS, at a lawfully noticed public hearing on October 18, 2010, the Whitefish City Council received an oral report from the staff, reviewed staff report and the recent Attorney General Opinion, 53 Op. Att'y Gen. No. 5 (2010), invited public input regarding the proposed independent community library and unanimously approved a motion to terminate the Interlocal Agreement effective July 1, 2011, and establish a separate, tax-supported public library; and

WHEREAS, on October 19, 2010, Chuck Stearns, City Manager, provided the City's formal written notice of termination of the October 15, 2001 Interlocal Agreement and notice of the City's desire not to be a part of the County Library system; and

WHEREAS, the City Council now desires to create an independent tax-supported public library for the Whitefish Community and to exempt property inside the City limits of Whitefish from the County Library tax levy beginning in Fiscal Year 2012 (tax year 2011); and

WHEREAS, it will be in the best interests of the City of Whitefish and its community to approve the creation of the Whitefish Community Library as a tax-supported public library.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Whitefish, Montana, as follows:

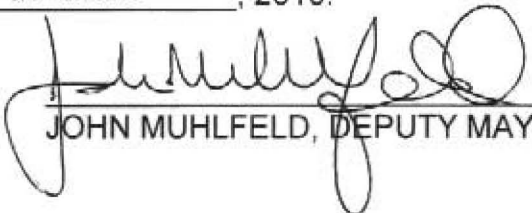
Section 1: All of the recitals set forth above are adopted as Findings of Fact.

Section 2: The Whitefish Community Library, a free tax-supported public library is established under the provision of Montana laws relating to public libraries.

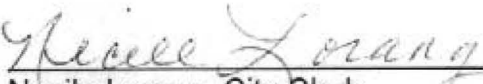
Section 3: On or before July 1, 2011, the Whitefish Community Library shall begin to deliver library services to the Whitefish community at the City's library building located at 9 Spokane Avenue, Whitefish.

Section 4: This Resolution shall take effect immediately upon its adoption by the City Council, and signing by the Mayor or Deputy Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS 15TH DAY OF NOVEMBER, 2010.

  
JOHN MUHLFELD, DEPUTY MAYOR

ATTEST:

  
Nécile Lorang, City Clerk

**ORDINANCE NO. 10-19**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, CREATING THE BOARD OF TRUSTEES FOR THE WHITEFISH COMMUNITY LIBRARY.**

BE IT ORDAINED by the City Council of the City of Whitefish, Montana, as follows:

Section 1: BOARD OF TRUSTEES ESTABLISHED: There is hereby established a Board of Trustees to be called the "Whitefish Community Library Board of Trustees," hereinafter referred to as the Board of Trustees.

Section 2: PURPOSE, POWERS, PROCESSES, AND DUTIES: As provided by Montana law, the Board of Trustees shall have exclusive control of the expenditure of the public library fund, construction or lease of library buildings, and the operation and care of the library. The Board of Trustees shall have the powers and duties currently provided in Section 22-1-309, MCA, as amended:

- (1) adopt bylaws and rules for its own transaction of business and for the government of the library, not inconsistent with law;
- (2) establish and locate a central public library and may establish branches thereof at such places as are deemed necessary;
- (3) have the power to contract, including the right to contract with regions, counties, cities, school districts, educational institutions, the state library, and other libraries, to give and receive library service, through the boards of such regions, counties, and cities and the district school boards, and to pay out or receive funds to pay costs of such contracts;
- (4) have the power to acquire, by purchase, devise, lease or otherwise, and to own and hold real and personal property in the name of the city or county or both, as the case may be, for the use and purposes of the library and to sell, exchange or otherwise dispose of property real or personal, when no longer required by the library and to insure the real and personal property of the library;
- (5) pay necessary expenses of trustees of the library staff when on business of the library;
- (6) prepare an annual budget, indicating what support and maintenance of the public library will be required from public funds, for submission to the appropriate agency of the governing body. A separate budget request shall be submitted for new construction or for capital improvement of existing library property;
- (7) make an annual report to the governing body of the city or county on the condition and operation of the library, including a financial statement. The trustees shall also provide for the keeping of such records as shall be required by

the Montana state library in its request for an annual report from the public libraries and shall submit such an annual report to the state library;

(8) have the power to accept gifts, grants, donations, devises, or bequests of property, real or personal, from whatever source and to expend or hold, work, and improve the same for the specific purpose of the gift, grant, donation, devise, or bequest. These gifts, grants, donations, devises, and bequests shall be kept separate from regular library funds and are not subject to reversion at the end of the fiscal year; and

(9) exercise such other powers, not inconsistent with law, necessary for the effective use and management of the library.

Section 3: MEMBERSHIP: The Board of Trustees shall have five (5) trustees. Trustees shall be appointed by the Mayor with the advice and consent of the City Council. Four (4) trustees shall reside within the boundaries of the City of Whitefish and one (1) trustee shall reside within the boundaries of the current School District No. 44 but outside the boundaries of the City of Whitefish. Trustees shall receive no compensation.

Section 4: TERMS OF TRUSTEES: Trustee terms shall be for five (5) years, although initially the appointments must be made for 1-, 2-, 3-, 4-, and 5-year terms. Annually thereafter, trustees must be appointed before July 1 of each year, in the same manner as the original appointments for a 5-year term, a trustee to take the place of the retiring trustee. Trustees may not serve more than two (2) full terms in succession.

Section 5: VACANCY: Any vacancy on the Board of Trustees shall be filled by the unexpired term in the same manner as the original appointment.

Section 6: ORGANIZATION: At its first meeting after the initial appointment of the Board of Trustees, and thereafter at its first meeting after July 1 of each year, the Trustees shall meet and elect a presiding officer and other officers that they consider necessary for one-year terms.

Section 7: EFFECTIVE DATE: This ordinance shall take effect thirty (30) days after its adoption by the City Council and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

\_\_\_\_\_  
MICHAEL JENSON, MAYOR

ATTEST:

\_\_\_\_\_  
Necile Lorang, City Clerk

# PUBLIC NOTICE



## **NEW – WHITEFISH COMMUNITY LIBRARY BOARD OF TRUSTEES**

### **PLEASE SUBMIT YOUR LETTERS OF INTEREST TO THE CITY CLERK'S OFFICE**

The Board of Trustees shall have five (5) trustees. Trustees shall be appointed by the Mayor with the advice and consent of the City Council. Four (4) trustees shall reside within the boundaries of the City of Whitefish and one (1) trustee shall reside within the boundaries of the current School District No. 44 but outside the boundaries of the City of Whitefish. Terms will be for five (5) years. Initially the appointments will be made for 1, 2, 3, 4, and 5 years. Thereafter, annual appointments will be prior to July 1st of each year.

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If you have any questions please call the City Clerk's Office at 863-2400. This is also posted on the City's website: [www.whitefish.govoffice.com](http://www.whitefish.govoffice.com). Interested citizens may submit a letter of interest to serve on this committee to the Whitefish City Clerk's Office at 418 E. 2nd Street or mail to P.O. Box 158, Whitefish, MT 59937, by Tuesday, November 30, 2010. Interviews will be scheduled for December 6th. Thereafter, if vacancies still exist, letters of interest will be accepted until the positions are filled.

**Thank you for your interest!**