

March 26, 2013

The Red Lodge City Council met in regular session on March 26, 2013 at 7:00 p.m. The meeting was called to order by Mayor Roat followed by the Pledge of Allegiance to the Flag.

ROLL CALL OF OFFICERS Present: Mayor Roat, Aldermen Foisy, Mahan, Larson, Labrie, Schoenike and Williams. Absent: None.

DEPARTMENT HEAD ATTENDANCE: Community Development Director – Forrest Sanderson and City Clerk – Debbie Tomicich.

MINUTES OF MARCH 12 Motion by Labrie, second by Schoenike to approve the minutes of March 12 as submitted. On roll call all Aldermen present voted “Aye.” Motion carried.

COMMENTS FROM PUBLIC REGARDING AGENDA ITEMS None

SPECIAL COMMITTEES – Climate Protection Committee Jay Mennenga, member of the Mayor’s Climate Protection Committee, gave the Council a finding on one of the major goals they have been working on to help the Council in reducing greenhouse gases. The goal of the U.S. Mayors Climate Protection Agreement was to strive to reduce global warming pollution levels to 7 percent below 1990 levels by 2012. Red Lodge’s agreement was signed by former Mayor Scanlin and unanimously adopted by the City Council in February, 2008. Red Lodge was one of only four cities in Montana to sign the agreement. The other three communities to sign were Billings, Bozeman and Missoula with Red Lodge obviously being the smallest community.

The group compiled energy bills in the following four areas: 1) electricity, 2) natural gas, 3) gasoline and 4) diesel and used the following fiscal years: 1) 1990-91, base year, 2) 2007-08, 3) 2010-11 and 4) 2011-12. The electricity usage went up but the growth definitely slowed down from 2007 to 2012 compared to 1990 to 2007. The natural gas usage increased from 1990 but then decreased from 2011-2012. The gasoline and diesel usage also did the same as the natural gas. The group found it encouraging when the usages decreased.

When the agreement was signed there were twelve items that the City said they would strive to meet or exceed for reducing global warming pollution and the City has met or is striving to meet all twelve of these steps.

The Climate Protection Agreement has expired but the City and the committee will continue striving for improvements.

STANDING COMMITTEES – ADMINISTRATION – USFS Greater Red Lodge Forest Management Project Traute Parrie, District Ranger for the Beartooth District in Red Lodge and Amy Warring, Project Lead reported to the Council on the Greater Red Lodge Forest Management Project. The project area encompasses West Red Lodge Creek, Nichols Creek and Willow Creek near Palisades’s campground. The area is roughly 14,000 acres and may be considered a transition zone from wilderness and inaccessible roadless areas to private lands. This area is a zone where social values and natural processes intersect and has also been identified in the Carbon County Community Wildfire Protection Plan (CWPP) as “Wildland Urban Interface” or “WUI”.

Concurrently with this planning effort by the Beartooth Ranger District, the State Dept. of Natural Resources has been planning a project called the Palisades Timber Sale, immediately adjacent to National Forest System

lands and the Greater Red Lodge project. Although these are two separate projects, with differing objectives, the Forest Service and DNRC have been in communication throughout the process, and are considering each other's proposals in their respective cumulative effects analyses.

Parrie said the purpose of this project is twofold: 1) Reduce fuels within the WUI to mitigate the negative consequences of wildfire to values at risk, thereby improving public and firefighter safety, and 2) Increase the diversity of vegetation, including aspen and deciduous riparian species, and manage for desired conditions that are more resilient in the face of large disturbance events.

This is an integrated project with multiple resource benefits. The primary driver is fuels reduction in the WUI. In this area, large disturbances such as a stand replacing wildfire or a beetle epidemic may not be desirable due to completing ecological/social values. In this area, treatment is proposed to mitigate consequences of wildfire to values at risk, thereby improving public safety.

In addition to fuels reduction, another purpose of this project is to improve resiliency to disturbances by increasing the diversity of species, age, and size, and densities of vegetation. A forested landscape that contains a diversity of species composition, sizes and densities, and vegetation patterns is a resilient forest. A resilient forest has the capacity across the landscape for renewal and expedited recovery from a wide range of disturbances while meeting current and future needs of people with diverse values, for various uses, products and services.

Lastly, a purpose of this project is to maintain and/or increase the amount of deciduous vegetation in riparian areas, as well as maintain a diverse mix of deciduous and coniferous species to provide wildlife habitat, protect water quality, and provide adequate tree and shrub vegetation to maintain stream bank stability, stream cover, and fish habitat.

The proposed action includes approximately 950 acres of noncommercial treatment and 1,200 acres of commercial treatment. Treatment is proposed to achieve desired future conditions (i.e., reduce hazardous fuels in the WUI, increase age, size class and species diversity, and enhance aspen and riparian habitat). The proposed action also includes improving the road up Nichols Creek to correct water quality problems and enable the route to be used for log truck hauling, post and pole/teepee pole harvest and long term recreational use. Approximately 8 miles of temporary road would be required to complete the project and approximately 5.4 miles of existing road are proposed to be decommissioned as previously recommended in the Beartooth Travel Plan. All of the roads to be decommissioned are currently closed to public motorized use.

Noncommercial treatment includes a combination of burning by hand and mechanical treatment to achieve desired future condition and may include cutting trees by hand or mechanically to 1) increase tree spacing, 2) regenerate a new age class of trees or 3) remove colonizing conifers around aspen and in riparian areas. Thinning in lodge pole pine will average 10 to 15 foot crown spacing and thinning in Douglas fir and ponderosa pine will average 10 to 20 foot crown spacing.

Commercial treatment includes a combination of thinning and clear-cutting to achieve desired future conditions, as well as activity fuel treatments including broadcast burning, jackpot burning, pile burning, whole tree logging, and lopping/scattering. Clear-cuts are proposed in lodge pole pine to start a new age class of tree and/or promote aspen. Thinning is proposed in a combination of lodge pole pine, Douglas-fir, ponderosa pine

and limber pine to achieve fuels reduction, restore aspen and grasslands, increase size, age class, and species diversity, and enhance wildlife and riparian budget.

Parrie said that public comment will be taken through March 29, 2013. She said the USFS will also review comments taken after this timeframe but at some point it will be too late to do anything so if anyone has comments to be made they should do it in a timely fashion.

Foisy asked Sanderson and Schoenike if this Urban Wildland Interface updated the City of Red Lodge Growth Policy. Sanderson said this area being discussed is not in the City's planning jurisdiction. Foisy asked if the Growth Police addressed this issue. Sanderson said the Red Lodge Fire Department provides Urban Wildland Interface component near the City and the areas being discussed tonight fall into the jurisdiction of the City/ County Planning authority.

Use of City Owned Land – 12th Street West – Alley to Broadway – Beartooth Rally – Snag Bar and Bull and Bear Motion by Labrie, second by Williams to approve the use of City owned land on 12th Street West from Broadway to the alley by the Snag Bar and Bull and Bear over the Beartooth Rally with an additional fee of \$1500 which will be due by July 31, 2013. On roll vote all Aldermen present voted "Aye." Motion carried.

Labrie said the reason the committee chose to have the added stipulation is because in the past donations were made by the event holders to off set the cost of additional police officers but this has not been received in the past few years so this year, using the ordinance, there is the ability to add a fee for this. If the street is not closed for whatever reason the \$1500 will not be due. This addition is not something that is cast in stone for the future or other events. Sanderson asked if the motion included the standard limitations that are imposed every year in respect to the hours, manner of operations and music. Labrie said the motion did include these standard limitations.

Solid Waste RFP-SOQ Sanderson said the responses to the Solid Waste RFP-SOQ are due by April 3 and then the Administration Committee will need to go through the responses determining the most qualified. The committee will bring the decision back to the Council and then a contract will need to be decided upon and then go back to the Council for approval.

Resort Tax Review – Approve Notice for Posting Motion by Williams, second by Labrie to approve the legal notice for posting on the Red Lodge Resort Tax Review Committee. On roll call vote all Aldermen present voted "Aye." Motion carried.

Resolution #3357 – Approve Ballot Language – Form of Government Issue

RESOLUTION # 3357

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RED LODGE TO APPROVE THE BALLOT LANGUAGE FOR THE MANDATORY FORM OF GOVERNMENT REVIEW DURING THE PRIMARY ELECTION IN 2013.

WHEREAS: The City of Red Lodge is required once every ten (10) years to question the residents of the City as to their preference in the form of government; AND

WHEREAS: The last local government review was conducted in 2002; AND

WHEREAS: Pursuant to §7-3-173(2) M.C.A., the City is required to pose the question during the Primary Election as to the creation and funding of a study commission to review the form of government and make recommendations.

NOW THEREFORE, be it resolved by the City Council of The City of Red Lodge:

That a Primary Election shall be conducted in 2013 for the City providing the electorate the opportunity to review the form of government using the following Ballot Language:

0 FOR the review of the government of the City of Red Lodge and the establishment and funding, not to exceed Two thousand five hundred dollars (\$2,500.00), of a local government study commission consisting of three (3) members to examine the government of the City of Red Lodge and submit recommendations on the government.

0 AGAINST the review of the government of the City of Red Lodge and the establishment and funding, not to exceed Two thousand five hundred dollars (\$2,500.00), of a local government study commission consisting of three (3) members to examine the government of the City of Red Lodge and submit recommendations on the government.

Motion by Larson, second by Mahan to approve Resolution #3357 which has to do with the language due to the form of government issue. On roll call vote all Aldermen present voted "Aye." Motion carried.

POLICE AND EMERGENCY SERVICES – Ordinance #898 – Open Container – 2nd Reading/Public Hearing

ORDINANCE # 898

AN ORDINANCE TO CLARIFY AND REVISE THE RED LODGE OPEN CONTAINER ORDINANCE.

Mayor Roat opened the public hearing on this ordinance. No one spoke to the issue so the Mayor closed the public hearing.

Motion by Larson, second by Labrie to approve Ordinance #898 on second reading. On roll call vote those in favor: Aldermen Foisy, Mahan, Larson, Labrie and Williams. Those opposed: Alderman Schoenike. Motion carried.

Appointment to Police Commission Mayor Roat asked the Council to concur with this appointment of Colleen Stevenson to the vacancy on the Police Commission. Mahan said the Police and Emergency Services Committee interviewed both interested people, Colleen Stevenson and Tera Reynolds, and they recommend Colleen Stevenson for filling of the vacancy.

Motion by Mahan, second by Schoenike to concur with the Mayor's appointment of Colleen Stevenson to the Police Commission. On roll call vote all Aldermen present voted "Aye." Motion carried.

LAND USE AND PLANNING – Legnini v. MDT Ed Beaudette, Attorney for MDT, presented the history of the property in question. It was said that a judge will undoubtedly be needed to sort out the ownership of the property which is the abandoned railroad right-of-way. The current dispute involves MDT, a private property owner and the proposed Two Mile Road Project. MDT needs a portion of the abandoned right-of-way in order to complete the project using the area for a multi-use recreational trail at the request of the City. The portion at issue abuts property owned by Robert Legnini. Legnini has asserted his ownership right over the portion of the abandoned railroad property that is adjacent to his property. MDT and Legnini are now litigating who owns the abandoned railroad right-of-way, Legnini or the City.

Sam Painter said, and Mr. Beaudette concurred, that MDT has offered the City a contract or agreement with the MDT proposal of them undertaking the defense of the City in the litigation. This would be accomplished by the

City assigning to MDT all of its right, title, and interest in the railroad right-of-way. At the conclusion of the litigation, if it is determined that the City is the owner of the right-of-way, then MDT would pay the City the appraised value of the property required for the Robinson to 2 Mile Bridge Road portion of the Highway 212 reconstruction. The City would give MDT Bargain and Sale Deed. In consideration of MDT undertaking the defense of the City (at no cost to the City), the City would convey to MDT, by Quit Claim Deed, the remainder of the railroad right-of-way to be used for future transportation projects. Mr. Beaudette told Mayor Roat that he will send the City a letter stating the facts that there would be no cost to the City in regard to this litigation.

Mr. Beaudette showed the Council a chain of title exhibit that was done by their senior land attorney. It showed the progression of Parcel 64 and Railroad Right-of-Way Parcel 59. Mr. Beaudette said the MDT will go to condemnation if they lose the lawsuit. He said the lawsuit has to be done so MDT will know who the owner of the property is either way as MDT needs a clear title. They would rather not go to condemnation if at all possible.

Williams asked how large, approximately, the involved area was. He was told about twelve acres.

Motion by Schoenike, second by Mahan that the Mayor execute the assignment supplied by MDT to assign all right, title and interest in the land known as Parcel #59 in MDT project MT28-23870. On roll call vote all Aldermen present voted "Aye." Motion carried.

Growth Policy Schoenike said the Planning Board will be continuing their work on the Growth Policy tomorrow, March 27, at the Planning Board meeting at 5:30 p.m.

PUBLIC WORKS – Angle Parking Request – Farmers Insurance – 7th Street East Motion by Foisy, second by Schoenike to approve the angle parking request by Farmers Insurance on 7th Street East. On roll call vote all Aldermen present voted "Aye." Motion carried.

Foisy said that Chief Pringle and the Public Works Director both agreed with this request by the applicant. This parking request will work so much better for Farmers Insurance. They will do the paving, striping and curb work for this request.

Handicapped Parking Space – Red Lodge Antique Mall The owner of the Red Lodge Antique Mall has requested the handicap parking space on the southwest corner of 12th Street & Broadway be moved.

Motion by Schoenike, second by Labrie to eliminate the handicap parking space on the south side of West 12th Street and create a new handicap parking space on the north side of East 12th Street. On roll call vote all Aldermen present vote "Aye." Motion carried.

Schoenike said the stipulations are that the party that made the request will power wash and remove the blue paint from the current area and public works will paint the curb in the new spot and place a sign.

Broadway Water Rehab Project Update Sanderson said the project is underway. He said the milling from 5th Street to 11th Street is done. Sanderson also said that a weekly community update meeting will be held every Wednesday at 10:00 a.m. here at City Hall. This will hopefully keep everyone informed on the progress and questions can be answered.

CITIZEN REPORT Deborah Muth made an addition to the report given by the Mayors Climate Protection Group that the solar panels at the sewer lagoons are working very well. They are producing more kilowatts per month than originally calculated. She said the City should follow up with NorthWestern Energy to be

reimbursed for charges that were produced by the City itself. Mayor Roat said the final analysis has not been done yet but when all is done it will be determined if the City was charged more than they should have been.

CORRESPONDENCE Mayor Roat said he sent a letter to Commissioner Prinkki that can be sent on to the Representative with the request for funding to finish West Fork Road. Schoenike said representatives went to Helena to testify at the hearing before the Appropriations Committee that was hearing this bill and his understanding is that the Appropriations Committee voted unanimously to further the bill.

MISCELLANEOUS Schoenike said that he will be out of town for a couple of days next week to attend a funeral and will then be absent for the week of April 8 – 12 and will miss the April 9, 2013 Council meeting. He will not be absent for more than ten days however.

Meeting adjourned at 9:00 p.m.

Mayor

ATTEST:

City Clerk