

August 24, 2010

The Red Lodge City Council met in regular session on August 24, 2010 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 Kampfe, Mahan, Richter, Labrie, Kennicott and Priest. Absent: None.

MINUTES OF JULY 27 Motion by Mahan, second by Kennicott to approve the minutes of the July 27 as submitted. On roll call vote all Aldermen present voted "Aye". Motion carried.

MINUTES OF AUGUST 10 Motion by Mahan, second by Richter to approve the minutes of August 10 as submitted. On roll call vote those in favor: Aldermen Kampfe, Mahan, Richter, Kennicott and Priest. Those abstaining: Alderman Labrie. Motion carried.

COMMENTS FROM PUBLIC REGARDING AGENDA ITEMS Bill Cole, from the Cole Law Firm in Billings, represents Larry and Trish Yung owners of the Alpine Motel. He said the Yung's concern is the way that Coutts Avenue was constructed behind their motel. Cole said the avenue that was constructed in this area is not what was shown in the contract that was signed by the City.

PUBLIC HEARING – Petition to Abandon Coutts Ave. Between 1st and 2nd Streets Mayor Roat opened the public hearing. Sanderson said the City has received a completed petition to abandon Coutts Ave. between 1st and 2nd Streets in Block 95. The property owners, NeighborWorks Montana, represent one hundred percent of the lands on both sides. The petition acknowledges there are public utilities located in the Coutts Ave. right-of-way to be abandoned and that they can remain where they are. Maintenance or work that is found to be necessary on these utilities will be allowed if this portion of the avenue is abandoned.

Colleen Wolcott asked who would be responsible if any of her services were damaged when her trailer is moved. She was told that the mover would be responsible for any damage done at that time but after the move is completed the homeowner would be responsible for their service line. The City is responsible for the mains.

Duane Hergett asked about setback requirements if this stretch of Coutts Ave. is abandoned. Sanderson said the front setbacks would be measured from the centerline of the street.

Don Coutts asked if the City would have an easement to get onto the private street if it is abandoned. Sanderson told him the City would for maintenance of public utilities. Coutts asked if the City would be purchasing this easement and was told that by default the easement would be there for the utilities or the City would abandon the utilities.

Shari Neely asked if there would be any requirements as to the condition in which the road would need to be maintained. Sanderson said it will be a private road and will become the responsibility of the owner, which currently is NeighborWorks Montana.

Larry Yung, owner of Alpine Motel, spoke to a letter that was written which speaks to a "package deal". He said that not all issues with Mountain Springs Villa could be solved in a package deal. Sanderson said the abandonment of Coutts Ave. would solve the zoning issues in Block 95. There will still be a large number of other issues that go back to the performance bond for the completion of required infrastructure such as curbs, gutters, sidewalks and the slope adjacent to the Alpine Motel. Sanderson said though it

might be the desire of NeighborWorks Montana to lump all the issues together, the potential abandonment of Coutts Ave in Block 95 does not tie the hands of the Council on any other issues.

Tim Filz, attorney for NeighborWorks Montana, stated that Dowl-HKM has done a design that will minimize the moving of the homes in Block 95 so the setback requirements will be met. All homes situated in this block will be able to remain with the new design.

Larry Yung said he feels that no one is listening to his concerns with this project in the area of his motel. He said he hopes that all will take a very close look at each individual item to make sure they are addressed. Sanderson said that in 2009 he brought numerous deficiencies with the infrastructure to the Council, including the portion of Hauser adjacent to Yung's property. The City has a performance bond totaling approximately \$164,000 to guarantee that these items will be brought up to the City's satisfaction before they are accepted.

Mayor Roat closed the public hearing.

Motion by Kampfe, second by Mahan to approve the petition to abandon Coutts Ave. between 1st and 2nd Streets. On roll call vote all Aldermen present voted "Aye." Motion carried.

Kennicott said she is concerned with parking congestion on this section of road. She was told that the association states in their paperwork that each household can maintain two cars in the off street parking area. Traffic laws such as speeding will not be enforced by police officers on this road, as it will be private.

Kampfe said he feels the abandonment of this stretch of road will address the zoning violations in Block 95 even if it is not the perfect solution.

SPECIAL COMMITTEES – None

ADMINISTRATION – Carbon County Arts Guild – Resort Tax Barbara Ostrum, President of the Carbon County Arts Guild Board, spoke to the Council regarding the collection of the resort tax at the Guild. She explained to the Council that the Guild is a not-for-profit organization and they feel they should remain exempt from the collection of resort tax. She gave the Council a list of the programs, opportunities and events that the Guild supports.

Deborah Kline-Sonderman, Executive Director of the Guild, explained to the Council the differences between the work done by the Guild and an art gallery. She said the Guild does not turn down any artist who wants to show.

Kampfe said that he greatly appreciates the work that is done by the Guild. The review of the Resort Tax has been completed and the decision was made to have non-profits collect the tax on taxable items. The Guild will not be made to pay the tax it would be the customer who would pay the tax. It was decided to give the Guild until October 1, 2010, to start collecting the tax so they could get their tills ready and anything else they need to set in place for this.

Police and Emergency Services – Ambulance District Interlocal Agreement Motion by Kennicott, second by Richter to approve the Interlocal Agreement between Carbon County, the City of Red Lodge and the Town of Bearcreek for the administration of the Red Lodge-Roberts ambulance district. On roll call vote all Aldermen present voted "Aye." Motion carried.

Mayor Roat said the Interlocal Agreement needs to be finished so the Board membership can be appointed and the process can get started so the district will work. Once the Board is established they will have the duty and ability to answer questions and get the process moving.

Rennie Wittman, Deputy County Attorney, told the Council that all the operational details would be worked out at a later date with the City Attorney representing the City in what is drawn up. This will include things like personnel and equipment.

Emergency Services Committee Report Kennicott reported that recruitment and training would be beginning for Police Reserve Officers. It is not known yet when the training in Laurel will begin.

National expert, Marcus Bruning, was back in Red Lodge for domestic and sexual violence training with County law enforcement on August 17th and 18th. There was also a session held with prosecutors and other involved in the legal process. This opportunity was provided by DSVS.

At the committee meeting there was some discussion held on the new ordinance regarding the refusal of testing for DUI's. There is information in the Council packets regarding the ordinance adopted in Missoula. Priest commented that there might be a bill before the legislature on this topic also.

There was discussion on the need for a part-time office assistant to help with paperwork. This requirement cuts into the time needed for actual police work.

At the LEPC meeting held on August 17, 2010, it was stated there would be a Multi-Incident Tabletop held in Bridger on October 7, 2010, from 7:00 p.m. to 9:00 p.m. All interested parties are encouraged to attend. LEPC is also looking for a new Chairman and Secretary. The next LEPC meeting will be held September 21, 2010, at the Red Lodge Fire Hall at 1:00 p.m.

Land Use and Planning – Open Container Waiver – Bridge Creek Motion by Kampfe, second by Priest to approve the open container exemption request by Bridge Creek Back Country Kitchen and Wine Bar for three and one-half feet of sidewalk enclosed by a railing at 116 South Broadway. On roll call vote those in favor: Aldermen Mahan, Labrie and Priest. Those opposed: Aldermen Kampfe, Richter and Kennicott. Mayor Roat broke the tie by voting against the motion. Motion failed.

Kampfe said the request being made by Bridge Creek is for the allowance of serving alcohol on the City street in front of their business. It is not unusual for the City to grant such requests but this one is different as the time period is very extended. The request is being made through October 1st. Kampfe feels the City needs to find a mechanism to allow for a Café Exemption. This needs to be done within the next six months so it can be in place, if decided to do so, by next summer.

Diane Dimich has concerns with other businesses asking for this same type of exemption if this one were to be allowed. She also has concerns with the use of the City sidewalk in regard to ADA guidelines. She would like to see regulations in place before anything like this is done.

Kennicott commented that she feels the City is rushing to find a solution because one business was found not in compliance with the open container ordinance and does not allow proper consideration due an important decision. She has reservations with approving an exception to current policy until the City does some self-evaluation and puts the proper procedure in place. Kennicott said a representative of the City's insurance company said they have no recommendation for this particular allowance as their insurance facilitates short term events rather than ones as long as several months.

Peter Christ commented that his request is for an open container exemption and not for the use of an encroachment on the sidewalk. He said he still needs approval from the State to serve alcohol on the sidewalk. Christ said that his goal is to get the process moving in the right direction.

Mountain Springs Villa Compliance with Conditions Motion by Labrie, second by Mahan to approve the proposed Memorandum of Understanding between DOWL-HKM, NeighborWorks Montana and the City of Red Lodge to resolve all outstanding issues with respect to the Mountain Springs Villa project. Labrie withdrew her motion and Mahan withdrew her second.

Motion by Labrie, second by Mahan to table the proposed Memorandum of Understanding between DOWL-HKM, NeighborWorks Montana and the City of Red Lodge to resolve all outstanding issues with respect to Mountain Springs Villa until September 14, 2010. On roll call vote all Aldermen present voted "Aye." Motion carried.

Sanderson said the intent of the MOU is to resolve the outstanding subdivision issues. He said the MOU specifically deals with the deficiencies on curbs on Hauser Ave. between 1st and 2nd Streets, deals with curbing on 1st and 2nd Streets and also deals with the slopes adjacent to the Alpine Motel that are incomplete. The MOU refers to the remaining bond of approximately \$164,000, which can be used for these outstanding issues.

Sanderson said he would like two weeks to have the City Attorney come to Red Lodge and review the MOU further to make sure it is what the City wants and needs. Sanderson would like Sam Painter to be able to view the property so he fully understands the contents of the MOU before the City accepts it. Sanderson said the other parties were aware and agree to this delay if given.

Priest said he feels the MOU is veering from the normal way the City addresses the acceptance of a development. He spoke to such items as the punch list that is typically given showing what needs to be done before the development is accepted. Ray Armstrong said that the punch list was given and that is where the items in the MOU came from. Priest just wants to make sure the City will be doing things in an acceptable manner if they approve the MOU. Tim Filz said that an MOU is not a typical way to go in a subdivision but a punch list is. He said this subdivision has been more complicated than most. All NeighborWorks Montana is trying to do is to clarify what needs to be done to satisfy the punch list and to satisfy the subdivision requirements.

Ordinance #886 – Adoption of 2009 International Building Code – First Reading

ORDINANCE NO. 886

AN ORDINANCE AMENDING THE RED LODGE CITY CODE INCORPORATING AMENDMENTS TO THE STATE’S BUILDING CODES ACCORDING TO ARM NOTICE #24-301-2246 BY REFERENCE.

WHEREAS: The State of Montana has notified the Red Lodge Building Department of certain amendments to the State’s Administrative Rules; and

WHEREAS: The Red Lodge Building Department and the City of Red Lodge are required to conform its actions to State requirements by incorporating certain technical codes according to M.C.A. 7-5-4202; and

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RED

LODGE, MONTANA: The Red Lodge City Code is hereby amended in those parts set forth below to read as follows:

Section 9-1-1: ADOPTION:

The following codes are hereby adopted as City of Red Lodge Municipal Codes and are specifically adopted by reference:

- A. Adoption of the International Building Code, 2009 Edition (amending ARM 24.301.131)
- B. ARM 24.301.138 and ARM 24.301.139 fees.
- C. ARM 24.301.142 and ARM 24.301.146 building code modifications.
- D. Adoption of the International Existing Building Code, 2009 Edition (amending ARM 24.301.171)

Motion by Mahan, second by Labrie to approve Ordinance #886 adoption of 2009 International Building Codes on first reading. On roll call vote all Aldermen present voted "Aye." Motion carried.

Public Works – Open Alley Between Colt Communications and Mountain Springs Villa in Block 95

Motion by Mahan, second by Richter to approve opening the alley between Colt Communications and Mountain Springs Villa in Block 95. On roll call vote all Aldermen present voted "Aye." Motion carried.

Sanderson said that at the time of final plat for Colt Communications it was not felt there was a need for this proposed alley. Sanderson said that as a result of abandoning the proposed portion of Coutts Ave. the need for the alley is now there so it should be opened. There will be a number of pine trees that will need to be removed to open this alley for use. Sanderson said the driving force to opening this alley is mainly for emergency service travel.

Public Works Committee Report Mahan said the signposts at the turnout across from Altana Credit Union will be sawed off down to the concrete.

Guard railing that was destroyed by a car veering into it will take a little while for the State to replace. They need to be specially fabricated. This guard railing is by the Red Box Car.

Mahan said that Boyer commented on the very good work that is being done on the installation of the solar panels by the contracted local workers.

Sanderson said that the solar component went active yesterday, August 23, 2010. The VFD component is in and will be installed by August 31, 2010. Sanderson said the project should be completed by the end of September.

CITIZEN REPORT None

CORRESPONDENCE Mahan said that she and the Mayor met with representatives of the Wheeler Center. She said it was a very good opportunity to tell them what the problems are in Red Lodge and what is so very good about our community.

MISCELLANEOUS Mayor Roat said there is a house on 16th and Platt with a drop in the front lawn. He said the sidewalk is buckling and the porch foundation has dropped about six inches. The Mayor contacted the State Bureau of Mines about this problem. He said there is probably a mined out room under this house. There is subsidence occurring in this area.

Mahan told the Council that she will be having knee surgery on September 13 and will miss the 14th meeting.

There is a budget session scheduled for August 26, 2010 at 2:30 p.m.

Meeting adjourned at 9:40 p.m.

Mayor

ATTEST:

City Clerk