

August 12, 2008

The Red Lodge City Council met in regular session on August 12, 2008 at 7:00 p.m. The meeting was called to order by Mayor Scanlin followed by the Pledge of Allegiance to the Flag.

**ROLL CALL OF OFFICERS** Present: Mayor Scanlin, Aldermen Kampfe, Mahan, Lockman, Labrie, Kennicott and Priest. Absent: None.

**MINUTES OF JUNE 24** Motion by Mahan, second by Kennicott to approve the minutes of June 24 as presented. On voice vote all Aldermen present voted "Aye." Motion carried.

**MINUTES OF JULY 8** Motion by Mahan, second by Kennicott to approve the minutes of July 8 as presented. On voice vote all Aldermen present voted "Aye." Motion carried.

**MINUTES OF JULY 22** Motion by Mahan, second by Kennicott to approve the minutes of July 22 as presented. On voice vote all Aldermen present voted "Aye." Motion carried.

**CLAIMS AGAINST THE CITY** Motion by Kampfe, second by Priest that claims against the City totaling \$383,463.33 approved by the Auditing Committee, be paid and warrants drawn on their respective funds in payment. On roll call vote all Aldermen present voted "Aye." Motion carried.

Kampfe commented on a couple of the larger claims this month. There was a payment to MMIA for \$79519 to pay the yearly liability premium on the City insurance. COP Construction was paid \$184,785 for work done on the 2007 Water Rehab project. Kampfe said the rest of the claims were fairly standard.

**OFFICERS REPORTS** The officer reports were approved by the Council as submitted.

**SPECIAL COMMITTEE** None

**STANDING COMMITTEES – Administration – Line Item Budget** The line item budget is not yet completed as department head cuts have not all been made. The Enterprise Funds are still being discussed as to how the Council would like to see the funds spent. Salaries for employees are still an issue that needs to be decided through the union, as this is a large component of the budget. It was decided to wait on this until all information is gathered and the budget is set for adoption.

**Local Government Associates – Salary Study** Ken Weaver and Judy Mathre of the Local Government Associates were hired to help the City with a salary study. They have done this work for the City and brought the document to the City for consideration. Weaver said there were three outcomes that were sought in the RFP. One was comparison with other comparable jurisdictions. Weaver did a comparison with Laurel, Colstrip and Columbus. All three, along with Red Lodge, are third class cities. Red Lodge, Columbus and Laurel are in the Department of Labor Compensation Zone 8. Mathre said that Colstrip was used primarily because the population is similar to Red Lodge. Another component was recommendations concerning adjustments to the pay matrix. Weaver has given the City a pay matrix with specific recommendations. The last component was definitions concerning benefits as well as compensation and Weaver said they did this also.

The Council was asked to funnel any questions on this salary study through Sanderson and he will then get in touch with Weaver and Mathre. Weaver said he would get to the City to answer any questions in a quick manner. Weaver also told the Council that some of the job descriptions should be closely reviewed and changed accordingly.

Weaver said the pay grade on the employees is a result of a comparison of every position description and the scoring of these position descriptions with every other position of the City. Weaver provided his scoring methods in his survey. Service step is the same as longevity. Weaver recommends a 2% increase paid every two years. This would be a pay raise based on satisfactory performance. Weaver also said that COLA is not a pay raise. He said it is an adjustment in the value of the dollars paid to the employees. The service step will be 2% paid every two years on the employee's service date. Weaver said it was their recommendation to not apply a COLA for the 08-09 fiscal year but to raise the wages so they are comparable to where they should be.

Motion by Lockman, second by Mahan to adopt the Salary Survey presented by Local Government Associates.

Motion by Kampfe, second by Mahan to table this item until the August 26 meeting. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Large Events Committee – Use of City Owned Property** Priest said the main change in this ordinance is the ability to charge rent for City owned property to help capture costs the City incurs. These are not fees, as fees require a nexus test. Rent gives more discretion as to how much the City wants to charge for use of City property. The Council needs to decide if they want to stay with a fee schedule or move to a rental schedule. The clean-up deposit was increased from \$75 to \$175 to make sure the property is cleaned up. Priest said this ordinance was designed to make sure the City can charge appropriately when necessary.

In article #4 it states "The City may require any applicant to provide for additional sanitation, recycling, street washing, clean up, etc in the Central Business District and for additional restrooms in amounts satisfactory to the Council." The Mayor asked why it would only be in effect for the Central Business District. Priest said this should be changed to include any City owned property.

City sidewalks can be used within five feet of the lot line of private property in any district zoned for commercial use except during the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> of July and when the Beartooth Rally and Harley Rodeo are held. Priest said there is a concern of hazards on the sidewalks during the very busy times. Some people use grills to cook food and the police find this to be very dangerous during very crowded times. This would include the owner of the business not being able to use the sidewalk during these times.

Priest said they will get the discussed items to the City Attorney and this ordinance will come back to the Council at the next meeting.

**Exhibition Driving** This ordinance will be most commonly used for noise. The ordinance applies to all vehicles and not just motorcycles. It follows the State laws for modification of mufflers. In the ordinance it says: Exhibition Driving: "It shall be unlawful for any person to engage in exhibition driving or operation of any vehicle within the city limits. Prima facie evidence that this section has been violated shall be the operation of a vehicle in such a manner that it creates or causes unnecessary or excessive revving, and/or unreasonable tire spinning or squealing sounds emitted by tires, and/or, the unreasonable throwing of dirt or gravel." Priest said Kent Young and Sam Painter both approved this ordinance. Mayor Scanlin noted that Young had previously stated in person at a Council meeting that subjective performance standards could not be defended. The Mayor stated that she would

Kampfe commented that people could only be fined for their mufflers and exhaust if they fell under the exhibition driving definition. He was told that is correct. The ordinance says nothing in regards to the standards of a muffler system or modification. This ordinance does not follow the federal law. Mayor

Scanlin noted that Young had stated in person at a Council meeting that subjective performance standards would not be defended. The Mayor stated that she would confirm this with Painter and Young.

This ordinance will come back to the Council at the next meeting.

**Temporary Outdoor Sales** The City has previously adopted the Red Lodge Development Code and has since determined it is in the best interest to the City and its citizens to amend the Development Code to include the table that would prohibit Outdoor Display/Sales on a Temporary Basis in all zones except the Central Business Zone. \*Outdoor Display/Sales on a Temporary Basis is allowed only within the Central Business District. As used herein, "Temporary" means operating continuously for no more than 30 consecutive days. This section does not apply to garage sales conducted by residents.

Sanderson said that before this ordinance could be adopted the City would have to first adopt the new Growth Policy. This ordinance can be considered and will come to the Council at a more appropriate time.

**Recognition of Tim Swansboroughs Years of Service** Tim Swansborough was presented a plaque for his years of service to the City of Red Lodge as its Building Inspector. Swansborough was unable to attend the meeting but the Mayor presented his plaque anyway and it will be given to him at a later date. He was thanked for his years with the City and the job he has done. Swansborough served from 5/16/95 to 7/31/08. This position has been elevated to being a full time position.

**Police and Emergency Services – Beartooth Rally – Police Brief** Chief Pringle reported that he felt the rally was down in attendance this year. He felt the number of outlaw motorcycle gangs was larger. He said there were no major problems over the time of the rally. The Chief said it is his job to look out for the welfare and safety of the community and he has concerns with what he feels is an increase in the outlaw gang members being in town. Although there were no problems this year it is something he will watch and prepare for. He said this year his department hired 16 additional officers to help patrol the City. Sanderson said there was 100% compliance on the businesses obtaining a license before they started selling by Friday afternoon.

**Cascade Fire Briefing** Mayor Scanlin said the fire crew is down to one hotshot crew, one helicopter and two engines. This leaves about 100 firefighters. The Mayor said the Council members did a very good job at setting up an evacuation plan for the City. The Mayor also thanked Beth Hutchinson for the work she did rounding up volunteers and having them in place. She thanked the volunteer emergency services for the work they did for the community. The crews and personnel helping with the fire stated that Red Lodge was very easy to work with and did a fine job helping with the work that needed to be done.

**Land Use and Planning – Resolution No. 3259 – 2008 Growth Policy**

**RESOLUTION NO. 3259**  
**RED LODGE CITY COUNCIL**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF RED LODGE TO ADOPT THE 2008 RED LODGE GROWTH POLICY.**

**WHEREAS:** The Red Lodge City Council tasked the Red Lodge Planning Board with the preparation of a Growth Policy for the City and a reasonable planning jurisdiction outside of the City limits, AND;

**WHEREAS:** The Red Lodge Planning Board approved an action plan incorporating public input and an approximate time line for the adoption of a new Growth Policy for the City of Red Lodge, AND;

**WHEREAS:** The proposed Growth Policy addresses all of the statutory components of a Growth Policy to the extent acceptable to the Planning Board, AND;

**WHEREAS:** The Red Lodge Planning Board did conduct a public hearing of the Growth Policy on April 23, 2008, AND:

**WHEREAS:** The City of Red Lodge through its Community Development Department has and continues to work cooperatively with the Carbon County Board of County Commissioners on planning and land use related issues, AND:

**WHEREAS:** The City Council of the City of Red Lodge is desirous of establishing and maintaining up to date growth management regulations including but not limited to Zoning, Subdivision and Floodplain Regulations, AND;

**WHEREAS:** The City Council of the City of Red Lodge is statutorily required to update and examine the Growth Policy on a time frame not to exceed 5 calendar years, AND;

**WHEREAS** 76-1-604 of the Montana Code Annotated provides the process for the adoption, revision, or rejection of a growth policy by the City Council, AND;

**WHEREAS:** The City Council of the City of Red Lodge adopted Resolution of Intent number 3253 which provided for a 30-day comment period on the proposed growth policy, AND;

**WHEREAS:** The comment period expired on June 28, 2008 and the City Council gave due weight and consideration to all of the comments received on the proposed growth policy.

**NOW THEREFORE BE IT RESOLVED,** by the City Council of the City of Red Lodge, Montana to adopt Resolution Number 3259 which formally adopts The Red Lodge Growth Policy as prepared by the Planning Board and amended by the City Council. Further the document shall be cited as the 2008 Red Lodge Growth Policy, effective August 12, 2008.

Motion by Priest, second by Mahan to adopt Resolution No. 3259 adopting the 07/10/08 Draft 2008 City of Red Lodge Growth Policy incorporating additional changes and changes from the 07/24/08 Draft as follows:

- All the proposed changes on page 1 plus the substitution of the name Maryvette Labrie for the name Dave Stauffer; and
- Those changes beginning on page two (2) and ending on page thirteen (13) within the third paragraph after the fifth (5<sup>th</sup>) sentence; and
- Those changes beginning on page fourteen (14) and ending on page twenty-seven (27) within paragraph F after the third (3<sup>rd</sup>) sentence; and  
Those changes beginning on page twenty-eight (28) ending on page twenty-nine (29) before the start of paragraph G; and

- Those changes beginning on page twenty-eight (28) after the sentence beginning “Major commercial developments shall” and ending on page thirty-four (34) within the last paragraph after the first (1<sup>st</sup>) sentence plus adding the word “estimated” in the second sentence between the words “the” and “median” plus the addition of “(Source: NPA Data Services, Inc., 2008)” at the end of that same second sentence; and
- Those changes beginning on page thirty-five (35) and ending on page thirty-six (36) after item eleven and the heading sentence beginning with the word “Strategies”; and
- On page thirty-seven (37) in paragraph J the addition of the words “or other housing entity” and in paragraph O the replacement of the word “old” with the word “current”; and
- Those changes beginning on page forty (40) and ending on page forty-five (45) within the third paragraph after the fourth (4<sup>th</sup>) sentence; and
- Those changes beginning on page forty-six (46) and ending on page fifty-three (53) after the heading sentence at the bottom of the page beginning with the word “Additional”; and
- Those changes beginning on page fifty-four (54) and ending on page fifty-five (55) in paragraph C after the first sentence plus the replacement of the second sentence in paragraph C with the following – “The CIP may be revised during the annual budget process.”; and
- Those changes beginning on page fifty-six (56) until the end of the document.

On roll call vote those in favor: Aldermen Kampfe, Mahan, Labrie and Priest. Those opposed: Alderman Lockman. Those abstained: Alderman Kennicott. Motion carried.

There was quite a lot of discussion on the sources of data in the document, especially in the area of housing. Mayor Scanlin feels there is conflicting data in the document and she is concerned with this. Some felt that this type of information changes so fast that it can be referenced at any point of time to get the current data on things such as population, median household income and such. It was suggested to remove all data from the document but it was not done, as they would be points of reference at any point in the future.

Motion by Lockman, second by Kennicott to table the adoption of the Growth Policy until the meeting of August 26. On roll call vote those in favor: Aldermen Lockman and Kennicott. Those opposed: Aldermen Kampfe, Mahan, Labrie and Priest. Motion failed.

**Future of BOA** Sanderson told the Council they have four options regarding the Board of Adjustments. Option 1 is to continue to seek qualified applicants to fill the current four BOA vacancies. The advantage to this option would be maintaining the status quo. A fully functional and staffed BOA is an appointed citizen board that acts as a relief valve for the City Council. The disadvantage is there has been at least one vacancy on the BOA since February 26, 2008 and not a single letter of interest has been received despite numerous rounds of advertising the vacancy.

Option 2 is to reduce the number of members on the BOA from seven members to five members and continue to seek qualified applicants to fill the two vacancies. The advantage to this option would be to maintain an appointed BOA with fewer seats to fill. The disadvantage is that a concurring vote of four members is necessary in order for the BOA to approve a request; this is 80% of a five member BOA rather than a simple majority on a seven member BOA.

Option 3 is to assign the powers of the BOA to the Zoning Commission, which would be the Planning Board. The advantage with this option is that the Planning Board/Zoning Commission has the responsibility of advising the Council on Conditional Use Permits; therefore they are familiar with the Development Review Process.

Option 4 is to transfer the powers of the BOA to the Mayor and City Council. The Mayor can assume the role of Chair of the BOA, preside over meetings and have a vote. In order to decrease the potential for ex-parte communication for variance requests, the Mayor could delegate zoning administrator responsibilities to staff. The advantage with this option would be acting as a BOA, the Mayor and Council will provide consistency and adherence to prescribed standards for granting variances and other relief as specified in the Red Lodge Development Code. This option provides the added advantage of having nearly the same people hear and vote upon proposed new developments as well as grant variances. The disadvantage is that the City Council and Mayor will be assuming more responsibility. The ‘legislator’ and ‘quasi-judicial’ roles may be blurred.

Sanderson said he feels the best choice would be option 3 or option 4, which has the BOA as the Planning Board or the Mayor and Council.

Motion by Mahan, second by Kampfe to adopt option #4 and transfer the powers of the BOA to the Mayor and City Council. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Kampfe said that so few things come to the BOA that it seems unnecessary to have yet another board for a task that the Mayor and Council are qualified to handle.

**Public Works – Resolution No. 3262 – Solid Waste Rates FY-09**

**RESOLUTION NO. 3262**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA, CHANGING SOLID WASTE ASSESSMENTS TO PAY CONTRACTUAL OBLIGATIONS.**

**WHEREAS**, the Red Lodge City Council approved a solid waste collection agreement with Allied Waste, Inc. of Billings, Montana, in June of 2008; and

**WHEREAS**, this agreement is for five (5) years, and has been adjusted to reflect current costs for fuel, labor, disposal fees and the use of bear resistant garbage cans, and the current assessments have not kept pace with the cost of services under the aforesaid agreement; and

**WHEREAS**, the Red Lodge City Council is advised and understands the need for revenue to match the cost of services provided; and

**WHEREAS**, the Red Lodge City Council has determined an increase in rates is needed for the City to complete the term of the aforesaid agreement in a fiscally responsible manner.

**NOW THEREFORE, BE IT RESOLVED:**

1. The Red Lodge City Council resolves to increase assessed rates based on an annual assessment.

*96 Gallon:* \$ 247.08

*32 Gallon:* \$ 223.92

The Red Lodge City Council resolves that the rate adjustments for solid waste take effect September 1, 2008 and remain effective thereafter until other and further action of the City Council.

Motion by Priest, second by Mahan to adopt Resolution No. 3262 establishing the Solid Waste rates for FY 09 as recommended by staff. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Sanderson said the City would receive a credit from Allied Waste for the month of July and part of August as not all of the bear resistant cans have been distributed yet. Allied Waste expects to have this done in the very near future.

**Service Connections along White Avenue and Update on 2007 Waterline Rehabilitation Project**

Andrew Mattie, HKM, told the Council there are 19 service connections on White Avenue that are abnormal. Mattie said there are two water lines coming into town along White Ave. from the treatment plant. The eight-inch line that comes down White Avenue is about fifteen feet outside of the right-of-

way. The line is on the east side of the road. There are service connections on this line that go to individual houses. Mattie said the contractor is not authorized to work outside of the right-of-way. The eight-inch main will go away when the City turns on the new 16-inch line. These service connections in question will need to hook on to the new line. Mattie said the City will need to decide if they want to hook these residents up to the new line from the curb box. Mattie said the change order to do this work would be approximately \$50,000 to \$65,000 based on quotes from the present contractor. USDA/RD deemed this to be special circumstances and the contingency fund can be used for this work. Williams Plumbing and Heating would be willing to do this work.

Mattie said they have found several houses on McGillen, Grant and Adams that have more than one house on the same line. Mattie said one of these connections has three houses on one service line and one meter. He said there are at least five, maybe six, homes with this problem. To fix this problem each home would have to have its own service line and meter. The cost for this fix on the five homes would be approximately \$15,000 to \$20,000. This needs to be resolved as the homes have water at this time but a fix needs to be done.

Mattie said the tank will start being filled on Thursday, August 14 and will take until about Monday, August 18 to fill. He said this will be done slowly as August is typically a large water use month. The water will sit in the tank for three days before they start the leak testing.

There is a snag on the Highway 212 Water Extension Project that will need to have a change order done. Mattie said he will need to ask for a DEQ waiver. Mattie said that due to unknown alignment of existing "force main" sanitary service line, Williams Plumbing has been directed to pothole every 100 feet to locate the sanitary sewer line. This will allow Williams Plumbing to determine an alignment that will not conflict with the sanitary sewer line. Williams Plumbing is directed to use small crews for each pothole and also the mainline crew at each pothole. This is to be done before the continuation of the 12-inch water line can proceed.

The City has no contingency fund for this project. The Council will need to approve this work change directive when the engineer gives the costs. The project bid did come in under the amount that was budgeted for the project.

**Diamond C Links – One Year Warranty Completion** Sanderson said all required improvements have been installed in the Diamond C Links Subdivision and the improvements have been under warranty. The one-year warranty period has elapsed on Schedule I and II Utilities and developer is requesting the city accept these improvements. Schedule I and II Utilities includes 'everything underground' aka water, sanitary sewer and storm drain infrastructure. The Public Works Director has inspected the Schedule I and II Utilities on July 14, 2008 and recommends that Council accept the improvements into the municipal infrastructure.

The City is currently the beneficiary on a \$247,667.48 Letter of Credit under the name of Diamond C Links. The \$247,667.48 Letter of Credit covers 10% of the cost of all required improvements and serves as the City's warranty of improvements. Schedule I and II Utilities cost \$1,421,042, with 10% of the cost of these improvements being \$142,104.20. In accepting the Schedule I and II Utilities, the City shall also authorize the reduction of the available balance of the Letter of Credit by \$142,104.20. This action will leave \$105,563.28 on the Letter of Credit as a warranty on the remaining 'above ground' infrastructure; the warranty on this remaining infrastructure will expire October 19, 2008.

Motion by Priest, second by Mahan to adopt memo 'Diamond C Links-Acceptance of Schedule I and II Utilities' dated 08/07/2008 and attachments as findings of fact. I move the acceptance of Schedule I and II Utility Infrastructure of the Diamond C Links Subdivision, the reduction of the available balance of the

Letter of Credit by \$142,104.20, and that the Public Works Director issue a Certificate of Compliance on Schedule I and II Utility Infrastructure. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**Sidewalk Project – Authorize Engineering Study - \$10,000** The intent of this project is to extend a sidewalk from 3<sup>rd</sup> Street (Highway 78) to 9<sup>th</sup> Street on both sides of the Beartooth Market (Villard and Oakes), along 8<sup>th</sup> Street in front of the Arts Guild, and the block of Oakes in front of the Cedar Wood Villa in FY 09. If completed and in conjunction with other pedestrian facilities existing or to be installed, this would eventually give the City a connected pedestrian network from Two-Mile Bridge Road to the Mountain View Elementary.

The proposed sidewalk width is five feet plus rolled curb. This proposal will qualify for CTEP funding. The estimated project length is 3,000 linear feet and the cost of the sidewalk would be \$6.00 per square foot and the cost of the curb would be \$12.00 per linear foot. The estimated project cost of the sidewalk would be \$90,000 and the estimated project cost of the rolled curb would be \$36,000.

The engineering costs for design, surveying, grading and inspection typically is 15 % to 25% of the project cost. This would be \$18,900 to \$31,500. Sanderson recommends a suggested cost of \$25,000. This would make the total estimated project costs \$151,000.

The funding sources for this project would be CTEP funds and the City’s cash in-lieu of sidewalks.

Motion by Priest, second by Lockman to authorize the expenditure of \$10,000 from the City cash-in-lieu of sidewalks restricted cash account to pay for preliminary engineering and design of the Highway 78 to Mountain View Elementary School connector sidewalk. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**CITIZEN REPORT** Laura Getz, 1049 Kane Circle, thanked Alderman Priest for his very logical, very prepared motion for Resolution No. 3259-Growth Policy.

Getz said there are 132 members of the Boys and Girls Club and safety has become the number one priority for the club. She said the problem area is the block on Villard where it intersects at 9<sup>th</sup> Street. She said the traffic is very fast on this street even though there are reduced speed signs on this block. Getz said the club is asking for signage and imprinted crosswalks at the intersection from the City. Mayor Scanlin said she will speak with the Public Works Director to see if the City could paint the crosswalks at this intersection for the club.

Jody Ronning, 423 S. Platt, came to the City as a member of the Affordable Housing group. They asked the City if it would be a possibility to look at land that could be designated as park area to be viewed as a place for affordable housing if the land is buildable. The group believes in park areas and feels they are important but asks if the area is buildable that it perhaps be viewed for affordable housing instead.

Ronning also spoke to the issue of bears getting into trash. She wondered if using the bear resistant cans could perhaps have the bears trying to get into homes for food since their food supply would be diminished by the bear resistant cans. Mayor Scanlin said this is worth looking into with Fish, Wildlife and Parks. Priest said Kevin Nichols would be coming to the City as a citizen to urge the Council to adopt some measures regarding wildlife especially in the realm of people feeding wildlife.

Tammy Hoth, 910 N. Villard #32, told the Council that the Mountain Springs Villa project is currently on hold until next spring. She said the whole project will then be done at the same time and will be more cost effective.

Norm Mance, 507 S. Adams, told the Council that he assisted the Fire Camp with recycling. He said the firefighters in the camp were very helpful to him on this project.

**OLD BUSINESS** None

**NEW BUSINESS** None

**CORRESPONDENCE** Sanderson said the City received a communication from the Water Rights Attorney, Mike Cusick, saying the water court has issued a decision resolving case 43D258. This was based on a settlement between the City and other parties. Sanderson said there is some privileged information contained in portions of the report and he said if the Council wants to review the document with the attorney they would need to do so in an executive or closed session. Mr. Cusick will watch for any appeals to the Supreme Court on this case and report to the City if need be. The Council feels this would be sufficient for now.

**MISCELLANEOUS**

Meeting adjourned at 10:10 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

Minutes corrected at the August 26, 2008 meeting.