

February 27, 2007

Representatives from the Montana Department of Transportation gave the public and the Council a presentation of the Red Lodge 212 North Project before the scheduled Council meeting.

The Red Lodge City Council met in regular session on February 27, 2007 at 7:00 p.m. The meeting was called to order by Council President Reynolds followed by the Pledge of Allegiance to the Flag.

**ROLL CALL OF OFFICERS** Present: Council President Reynolds, Aldermen Kampfe, Mahan, Lockman, Stauffer and Scanlin. Absent: Mayor Roat.

**MINUTES OF FEBRUARY 13** Motion by Lockman, second by Kampfe to table the minutes of February 13 until the next meeting. On voice vote all Aldermen present voted "Aye." Motion carried.

**SPECIAL COMMITTEES** - Reynolds told the Council that the Airport Board met on February 15. She said the City did receive a loan approval from the Montana Aeronautics Council for \$550,000 but she said it is the Board's stance not to borrow money so it will undoubtedly not be accepted. Bridger also received \$45,000 from the same Council to level and resurface the Bridger airport. She said the Airport Board would have to match this grant with another \$45,000.

Reynolds said the Parks Board is working on their CIP presentation. They are also moving forward identifying six formal parks in town which are Pride Park, Finn Park, Lions Club Park, Field School Park, Rotary Park and Coal Miners Park. The Board is actively pursuing legal descriptions for these parks. Reynolds would like the Board to get a park designation for these areas to protect these parks from any future development or use outside of the park realm unless it goes to the vote of the public. This would require Council action to give these parks this designation. At this time Coal Miners Park would not be done due to the development of the school and the Nature Center.

**STANDING COMMITTEE - Administration** Scanlin said the committee met with Brent Moore to listen to his recommendations regarding the reorganization of the planning department under the umbrella of Community Development. This would make the Building Inspector a full time job with a third staff member to help with code enforcement. The committee would like recommendations from the Council to be considered during budget talks. Scanlin requested this be an agenda item at the next meeting.

Scanlin said the committee still needs to meet with Kent Young to discuss the terms of his contract to see if he still wishes to work under the present contract. They have been unable to meet with Mr. Young.

**Police and Emergency Services** The Administration Committee will be meeting with the Police to discuss the present grievance before March 26.

**Land Use and Planning – Planning Board Appointment** Motion by Mahan, second by Lockman to appoint Lynn Jackson to fill the vacancy on the Planning Board. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Release of Covenant #277343** The area being discussed fronts Highway 212 on the north end of town between the Flower Farm and the golf course. Grizzly Peak Inc. owns the land being discussed. Alderman Scanlin is a shareholder in Grizzly Peak Inc. so she asked to be recused. The land is being burdened with an agricultural covenant that was probably done to save on tax money. The covenant was originally entered

into with the County so Tony Kendall is asking both the County and the City to relieve this covenant from the property. The property will be subject to City zoning.

Motion by Mahan, second by Kampfe to approve the request to relieve the covenant of agriculture only on the property as described in the request that is within the City of Red Lodge. On roll call vote those in favor: Aldermen Kampfe, Mahan, Lockman, Stauffer and Reynolds. Motion carried.

**City Lights Major Subdivision – Public Hearing** Reynolds opened the public hearing on the City Lights Major Subdivision. Brent Moore, City Planner, gave a review of the application. Moore said this is a 9-lot major subdivision. The property owners and applicants are Paul and Francine Sayer. The property description is Lot 1 of Lalonde Subdivision, being Plat No. 1291, Third Amended. The proposed development is generally located east of Lazy “M” Street and lies within the northwest quarter of the southwest quarter of Section 22, T.7S., R.20E., in Carbon County. Additionally the property is generally located at the current Southern Terminus of Pine Ridge Road, just South of the intersection with Grizzly Circle.

The project was initially submitted to the City with two points of ingress and egress. The Planning Board denied the initial application on December 27, 2006, as designed by finding a proposed access point through the residential lot on Grizzly Peak was not permitted by the CC&R for Red Lodge Grizzly Peak.

The subject property is currently Low Density Residential and Skyline Overlay District. The lots as proposed meet the minimum lot size requirement for Low Density Residential. In addition, the road has been placed along the edge of the bench to meet requirements of the Skyline Overlay District. The application addresses requirements included within the General Regulations Section of the Development Code with regards to public improvements and the requirements for a SIA.

The City Development Code outlines criteria for preliminary plat review. This is a preliminary plat application and if approved with conditions the applicant will have to meet the conditions before a final plat review is done. The Planning Board and Council will need to weigh the criteria for this major subdivision application.

The Development Code allows for the City to place restrictive covenants on projects. There are some concerns with adjacent property owners. Moore said the general idea of covenants is that they transfer some of the maintenance responsibility to the developer. In this instance, the primary maintenance issues as proposed would be for the roadway, storm water system, and a potential trail along the West Bench. The applicant has not currently proposed such covenants, but the Council may wish to require such covenants. However, as the parcel is zoned Low Density Residential, there is not a need for covenants so long as all of the improvements to be maintained by the City are dedicated to the City, and the City agrees to take the responsibility of maintaining those improvements.

Mac Fogelsong spoke to the Council about the proposed road along the rim. The road would need to be at least twenty-five feet from the rim front. Fogelsong said with the setback requirements the homes would be at least one hundred feet from the rim to aid in the viewscape. The owner is proposing a park dedication between the right-of-way of the street and the eastern most property line. There will be approximately 64,000 square feet of park with a lot of it being on the slope. On the flat section he said there would be about thirty-five feet of useable land. The owner is proposing cash in lieu of sidewalks. The owner is extending water from the intersection of Pine Ridge and Grizzly Circle south into the project to the end of the cul-de-sac. Fire hydrants will be installed. Sewer will be extended into the project to service the lots. Street width is thirty-seven feet back to back. They are proposing a storm water detention facility to account for the storm water runoff of the project in the corner as it slopes to the north of the rim front.

Ray Kuntz said an easement was created in 1996 by retention rather than by grant. When the northern edge of the property was subdivided the previous owner retained an easement through the property on the northern side. The easement is sixty feet wide for access and utilities. The chain of title clearly indicates a retained access easement for purposes of the subdivision. There is legal, physical access to the subdivision provided by the easement.

Moore said one of the adjacent landowners, Frank Nienaber, wrote a letter about the project stating that a resolution could be met to his concerns with the proposed road if conditions were met. Mr. Nienaber said that perhaps the road could potentially be moved more to the east. An easement was signed and recorded with Mr. Nienaber and the City to provide for a future sewer line off the west bench. In exchange for granting this easement the City agreed to provide for the construction of water and sanitary sewer main services and any appurtenance within or adjacent to Mr. Nienaber's property. The City has an agreement to provide this when needed. Mr. Nienaber feels it will be more cost effective to provide these services now rather than later. The Public Works Director feels it is better to wait until later but that this will be done at City cost as provided in the easement. Moore said he has not received an answer from the attorney as to whether or not the access easement allows for publicly dedicated right-of-way. Moore said this is an issue between Nienaber and the City and not with the developer as to where the road will go.

Karen Lindeke said she feels it is presumptuous for a man who has a landlocked piece of property that has an easement to it to turn the private easement into a public road so that he can develop the land. She asked the Council to deny this application.

Mike Cline said he would like to see a guarantee on the road that is in close proximity to the bench if the City is going to be responsible for it. He would also like to see City Lights have a covenant.

Reynolds closed the public hearing.

Motion by Scanlin, second by Stauffer to approve as recommended by the Planning Board with conditions 1 – 6. After discussion was held on the motion the motion maker and second maker both withdrew their motion.

Scanlin said her biggest issue is having a legal position on behalf of the City about the access. She would like this referred to our land use specialist for an answer. She has concerns with the storm water run off. Particularly because a consultant would not guarantee it was stable. She would be interested in further pursuing a condition that the homeowners association assumes all risk with sloping or loss of the road with the City not having responsibility of replacing it. She has a concern that the emergency services be accommodated if there are any additional burdens.

Stauffer asked about the road where it curves towards the bench and given that it would be the responsibility of the City would it not be easier to install, manage, and maintain improvements including roads, water and sewer on straight road segments. Moore said that Skip Boyer nor the emergency service personnel stated any concerns with the curve in the road. Stauffer said he would be for a condition, unless it was proved baseless, that the road run straight from the point of which it crosses the north boundary of the lot to the point in which it widens out into the cul-de-sac. The reason he is for this condition is to make it easier for the City to build and for the long-term maintenance. It would also take the road farther away from the rim of the bench. If he is geotechnically wrong in asking for this he would like evidence to this effect from the applicant. He agrees entirely with Scanlin on the easement issue. Stauffer asked how it will be insured that each homebuilder will perform a geotechnical exploration for each specific residence. Moore said the Building Inspector is aware of the zoning requirement for any home built within one hundred feet of the bench having a study done. Stauffer feels this should be placed in the final plat and in the SIA and whatever

documents a potential buyer would see. Fogelsong said the intent of the report was to show that the lots are buildable as long as setbacks are adhered to. Stauffer asked what would insure that the homeowners maintain their responsibility for maintenance of individual storm water detention facilities. Fogelsong said that would be up to the owner. It was stated that the City will be responsible for the storm water detention facility in the northeast corner of the property. The closeness to the bench with the road and storm water retention appears to be two of the major concerns with the instability of the bench.

Ray Kuntz said he would put it in writing that the developer would be willing to continue any decisions by the Council until the March 13, 2007 meeting.

Motion by Scanlin, second by Lockman to continue until the next Council meeting. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Public Works – Woodlands at Rock Creek – Utility Easement** The requested easement is across a portion of the treatment facility property from the west end adjacent to Woodlands, then runs south and east along the outside perimeter of the primary treatment cell to the manhole just up gradient of the grit chamber. The easement is necessary to facilitate the Wastewater Service Area Expansion Agreement signed by the Stout's as developers and the City in January of 2006. Public Works Director, Skip Boyer, has reviewed this utility easement and is in concurrence with it.

Motion by Mahan, second by Lockman to approve the Woodlands at Rock Creek utility easement. On roll call vote all Aldermen present voted "Aye." Motion carried.

**CITIZEN REPORT** None

**OLD BUSINESS – 2006 Housing Plan** The Affordable Housing Committee were unaware that this item had been placed on the agenda until the last minute so they were not prepared to discuss the Housing Plan. It was decided it would be best to table this action until the next meeting. The Council was asked to review and give any proposed changes to Estelle Tafoya before the next meeting.

Motion by Lockman, second by Mahan to table the 2006 Housing Plan until the next Council meeting. On roll call vote all Aldermen present voted "Aye." Motion carried.

**NEW BUSINESS – Council Appointment to Parks Board – Reynolds** Motion by Lockman, second by Mahan to approve the appointment of Alderman Reynolds as the Council representative to the Parks Board. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Pre-Resolution – Dedicating Land for Affordable Housing** Mayor Roat is very committed to moving forward with dedicating land north of the airport hangers for a community land trust. Mayor Roat and Alderman Scanlin attended a seminar in Helena on community land trust, which they said was very beneficial. Scanlin commented that this step is a big one and that other sites in town should be looked at. She said this is one tool that can work but she is not sure the City is ready at this time to use it, as there are other avenues to be looked at. Stauffer said the land at the airport is also being addressed to be resurrected for an industrial park. Stauffer said he is not sure that we should have two independent initiatives considering doing radically different things with the same piece of land. These various ideas need to be discussed by all.

**Ordinance No. 869 – Amendments to Building Codes**

**ORDINANCE NO. 869**

**AN ORDINANCE AMENDING THE RED LODGE CITY CODE INCORPORATING AMENDMENTS TO THE STATE’S BUILDING CODES ACCORDING TO ARM NOTICE #24-301-202(1) 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 is 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, 2006 Edition (amending ARM 24.301.131)
- B. ARM 24.301.146 – Modification to the International Building Code applicable to both the Department’s and Local Government Code Enforcement Programs, has been amended within this rule package.
- C. Adoption of the International Residential Code, 2006 Edition (amending ARM 24.301.154)
- D. Adoption of the International Existing Building Code, 2006 Edition (amending ARM 24.301.171)

Stauffer was not sure what document was being amended with this Ordinance. It was asked if the development code was being amended and the answer is that it is not. It was said that the City Codes, meaning ordinances, is what is being adopted to accept the State changes in the building codes.

Motion by Mahan, second by Lockman to approve Ordinance No. 869 on first reading. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**CORRESPONDENCE** Two issues that are being looked into are the transporting of prisoners and the possibility of doing arraignments by television with the help of the County. As this moves forward more information will be brought back to the Council.

**MISCELLANEOUS** None

Meeting adjourned at 9:15 p.m.

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Mayor

ATTEST:

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City Clerk