

Mayor Roat called newly elected Council members, Betsy Scanlin, Ward One, Miriam Lockman, Ward Two, and Aaron Kampfe, Ward Three to the floor of Council Chamber and swore them into office. When the oaths of office were taken, the three Council members took their places at the Council table.

January 9, 2007

The Red Lodge City Council met in regular session on January 9, 2007 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, Lockman, Stauffer, Scanlin and Reynolds. Absent: None.

MINUTES OF DECEMBER 12, 2006 Stauffer corrected the spelling on three names in the minutes. Newt Sacks, Corey Cabral and Dan Burden had been misspelled. Stauffer also corrected under Old Business, Luoma Annexation the following sentence, "Some of these will be a cash contribution of \$375,000 to be used as the City feels is most needed, public dedication of 14 to 18 acres of public park space which will be maintained by the HOA not by the City, public dedication of two miles of trail systems, an extra voluntary impact fee of \$2000 per dwelling unit and 100 miner inches of water which is still a priority of the City."

Motion by Reynolds, second by Mahan to approve the minutes of December 12 as corrected. On roll call vote those in favor: Aldermen Mahan, Lockman, Stauffer, Scanlin and Reynolds. Those that abstained: Alderman Kampfe. Motion carried.

CLAIMS AGAINST THE CITY: Scanlin said the claims totaled \$141,918.86.

Motion by Scanlin, second by Reynolds that claims against the City 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.

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

SPECIAL COMMITTEES: None

STANDING COMMITTEE - Administration Scanlin asked the Mayor if he had done any personnel evaluations on the staff. The committee is just giving a reminder that this needs to be done.

Police and Emergency Services Lockman reported that she and Aaron McDowell went to Joliet to open up the dialog on the idea of an interlocal district. The Bridger ambulance was also present along with Commissioner Prinkki. She said the meeting went well and things are going forward. She said one of the problems with the Red Lodge Ambulance District is defining the lines of the district. She said a lot more work will have to be done but that it is being worked on.

Land Use and Planning - Island at Rock Creek Subdivision - Phase II - Final Plat Moore said this is an application for final plat approval as the preliminary plat has already been approved. The application is for seven single-family lots south of 13th Street going along Rock Creek. The preliminary plat was

approved with eighteen conditions. City Attorney, Alan McCormick, has reviewed the conditions and feels they have been met and he recommends approval of the final plat application.

Motion by Lockman, second by Reynolds to approve the final plat for Island at Rock Creek Subdivision Phase II. On roll call vote all Aldermen present voted "Aye." Motion carried.

Resolution No. 3225 - Luoma Annexation

RESOLUTION NO. 3225

RESOLUTION OF ANNEXATION OF CERTIFICATE OF SURVEY NO. 921 RE, WITHIN SECTION 15, T.7S., R.20E. P.M.M., CARBON COUNTY MONTANA

WHEREAS, a petition dated October 12, 2006, has been filed with the City of Red Lodge for the annexation to the city limits of the City of Red Lodge of the territory described below; and

WHEREAS, the petitioners constitute all of the owners of the territory proposed to be annexed, as described below; and

WHEREAS, the City Council of the City of Red Lodge has determined that it is in the best interests of the City and the inhabitants thereof, and of the petitioners, that the said territory be annexed to the corporate limits of the City of Red Lodge.

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

1. An election on the petition for annexation is not required as provided by MCA §7-2-4601(3)(a)(ii) since the petition was signed by one hundred percent (100%) of the owners of the annexed territory.
2. Pursuant to §7-2-4601(3)(b), the City Council finds that the proposed annexation is in the best interest of the City of Red Lodge and its citizens and hereby approves the petition for annexation.
3. Pursuant to MCA Section 7-2-Part 46, the incorporated boundaries of the City of Red Lodge shall be and are hereby extended to include the territory described in the petition for annexation and also described herein below.
4. The City Council hereby approves the Annexation Agreement attached hereto and incorporated herein as an integral part of the annexation approved herein and further authorizes the Mayor to execute the Annexation Agreement on behalf of the City of Red Lodge.
5. That a subdivision improvements agreement must be negotiated and approved at the time of final subdivision plat approval and prior to the issuance of any building permit.
6. The territory which is hereby annexed to the City of Red Lodge is specifically described as follows:
7. The City Clerk shall record and file this Resolution of Annexation when notified that the sale of the Annexed Property by Ronald A. Luoma and Darlene J. Luoma to The Spires at Red Lodge, LLC has officially been finalized and closed. If the sale fails to close, for whatever reason, the City's Clerk shall not file the Resolution of Annexation and the City agrees not to finalize the annexation of the Property through recordation.
8. The City Council hereby warrants and agrees that this annexation is contingent upon the execution of the Petitioners' purchase agreement for the above-described Property and the final closing of the sale of the property. All requirements contained in the Annexation Agreement, attached hereto, are conditioned on the title of the Property transferring, through sale, from the current owners Ronald A. Luoma and Darlene J. Luoma to the purchaser, The Spires at Red Lodge, LLC and the City Council acknowledges that Ronald A. and Darlene J. Luoma will not be held liable for any of the terms of the Annexation Agreement.

9. After final closing of the sale, this Resolution shall be incorporated into the official minutes of the City Council, and upon said incorporation, the City Clerk-Treasurer shall file a true and correct, certified copy of this Resolution and of said minutes with the Carbon County Clerk and Recorder.

From and after the date that the City Clerk-Treasurer files such certified copy of this Resolution and of the Council minutes in the office of the Carbon County Clerk and Recorder, this annexation of the above-described territory to the City of Red Lodge shall be deemed complete.

Motion by Reynolds, second by Mahan to approve Resolution No. 3225 as presented. On roll call vote all Aldermen present voted "Aye." Motion carried.

Luoma Annexation Agreement Motion by Reynolds, second by Lockman to approve the Luoma Annexation Agreement as presented. Discussion was held on the motion before roll call was taken. On roll call vote all Aldermen present voted "Aye." Motion carried.

Discussion was held on the motion to approve the annexation agreement. Reynolds spoke to page 5, Section 8c. of the agreement which states "Concurrent with the development of the Property, Petitioners shall contribute \$200,000 at Phase I final plat approval and \$175,000 at Phase II final plat approval towards future improvements". She asked what the improvements would be for. Moore said the applicant has agreed to make a cash contribution allowing the Council to prioritize the funds to what they determine to be the most appropriate area. Discussion was held on whether or not the funds had to be used in the realm of the development of the new project. Moore said that since the contribution is a stand-alone contribution he does not know if that would mean the Council use the funds towards the development of the project but feels this would be very appropriate. Reynolds said she was contacted by some of her constituents regarding these funds being obligated to fire and EMS services. She is not sure she wants to obligate future Council to using the funds in this manner. Mahan said she too would like to see the money used in this manner and have the wording say in some manner that the funds would be prioritized in this way. Lockman said the development could potentially bring up the City's ISO ratings and the ratings need to go down. She thinks the funds could be used in a manner so the ISO rating is not raised. Scanlin would like to keep the funds open ended not meaning that the funds would never be used in this manner if found appropriate at the time. Moore said that when development begins in this area the Council can address the ISO to see if it will negatively impact the ISO rating and decide at that time if any of these funds should be used to help mitigate any problems. Moore said he has seen no factual material to say the ISO rating will be impacted in a negative manner. He said the Council can put the onus on the developer at the PUD stage to demonstrate that the application will not have a negative impact on the ISO rating and if it does these funds can be dedicated towards this problem. Kampfe said he would be against amending the document to indicate specifically how these contributed funds would be used. He feels it needs to be open and a decision made when the time comes of obtaining the funds. He feels the agreement should be left as is. Stauffer also agrees the agreement should be left as is with no specific dedication for the contributed funds. He feels the Council in session at the time the funds are obtained will be able to make an informed decision on how the funds should be used.

Discussion was held on section 9, Impact Fees. Currently the sentence reads "It is further agreed that all lot owners will pay the City an additional voluntary impact fee of \$2000 per building permit, for a total impact fee of \$5260 per building permit." It was decided it would be best to take out the underlined section of this sentence.

Motion by Scanlin, second by Reynolds to amend the motion to eliminate the words “for a total impact fee of \$5260 per building permit” in section 9. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Moore pointed out on page 4 under section 6. Water Rights the paragraph speaks to water rights claims but is not stated this way throughout the entire paragraph. The applicant’s attorney asked that the word claim be inserted after the last two references to water rights as it is previously in the paragraph. This would be Water Right Claim 43D 43317 00 and Water Right Claim 43D 43316 00.

Motion by Mahan, second by Reynolds to amend the motion in the Water Rights section as described. On voice vote all Aldermen present voted “Aye.” Motion carried.

Scanlin pointed out that there will be costs associated with the transfer of water rights to the City. The Council said they are aware of this.

Mahan asked that the minutes reflect the fact that some of the Council members really would like to see the fire and EMS services are included in this document. She wanted the minutes to reflect they attempted to do so.

Stauffer said there are occurrences where the agreement speaks to PUD zoning. He asked if PUD can be set in the document when the Council does zoning and nothing has been considered yet how this area will be zoned and whether it will be PUD or not. Moore agreed with Stauffer, but does not know if this would create any problems but feels the term PUD could be removed from the agreement. Stauffer asked if this document was stating that Mr. Squire will not be committing cash in lieu of parklands. Moore said that the understanding he has is that parkland will be committed rather than cash in lieu.

Stauffer also spoke to section 18, Attorney’s Fees. This section states “In the event it becomes necessary for either party to this Agreement to retain an attorney to enforce any of the terms or conditions of this Agreement, then the prevailing party shall be entitled to reasonable attorney’s fees and costs, to include the salary and costs of in-house counsel including City Attorney if applicable.” Stauffer said his thoughts are that costs incurred to the City would possibly be higher to other departments rather than to the attorney fees. He said he would like to see the City’s costs be spoken to rather than just the City Attorney being specified. Stauffer said he does not want to bog down the agreement due to this but Scanlin agreed with him on his thoughts. Scanlin asked that section 18 be re-titled Enforcement of Agreement if Mr. Squire agrees and City Attorney Painter agrees.

Amendment to motion by Scanlin, second by Reynolds to eliminate all reference to PUD in front of zoning in the Agreement and making the following changes to section 18: Enforcement of Agreement. In the event it becomes necessary for either party to this Agreement to enforce any of the terms or conditions of this Agreement, then the prevailing party shall be entitled to all costs, including but not limited to reasonable attorney’s fees and costs, to include the salary and costs of in-house counsel including City Attorney if applicable. On voice vote all Aldermen present voted “Aye.” Motion carried.

City Lights Application Moore told the Council that the City Lights Subdivision application has been postponed. This application was originally proposed for 9 single-family lots at the golf course. The applicant proposed two points of ingress and egress. One was on Pine Ridge Road and the other was

proposed crossing through a residential lot. The Planning Board recommended denial of the application based upon that road. The applicant is going to withdraw the application and resubmit with an amended subdivision application. This amended application will be re-noticed to come before the Planning Board again in February. Mahan said the Planning Board meeting was a full house with spectators speaking against a residential lot being turned into a road.

Alley Closure in the Northern End of Red Lodge Reynolds asked that the Land Use and Planning Committee meet to discuss the alleys and streets in the northern end of town to review the packet of information that was given to the Council in regard to this subject. She said the committee will then come back to the Council with a recommendation on this topic. She would like this to be an action item on the next agenda. Mayor Roat said this can be done but he explained that this is now between the attorneys and no matter what decision is made at the table will change the law that is found out by the attorneys. He cautioned Reynolds as she has an interest in this, owing property in the area affected. Reynolds said she feels this should have come to the Council committee and not just to the attorney's. The alley vacated in 1902 was never transferred to any other ownership but the City. There is nothing at the Court House to indicate that any property in the affected area has been turned over to any other ownership.

Public Works Mayor Roat said the streetlights on the upper section on the east side of the street are constantly on as a proper controller has not been received. Three used controllers have been tried but have not worked so Northwestern Energy said a new controller will be installed and hopefully this will fix the problem. It was stated that some of the lights still need to be adjusted.

Highway 212 Corridor - MDOT Meeting Moore told the Council that MDOT will be holding a meeting at the Senior Citizen Center on January 17th from 6:00 p.m. to 8:00 p.m. They will be discussing the proposed improvements of Highway 212 from the intersection just south of the library all the way out to Two Mile Bridge Road. The main intent of this meeting is to focus on the north corridor past the intersection of Highways 212 and 78. It will not even include this intersection but go north to Two Mile Bridge Road. They will be gathering input on this section of the road.

TSEP Grant Mayor Roat said there is a hearing in the legislature on January 17 regarding the City's TSEP Grant. The City is very low on the ranking for receiving TSEP funds but there is a possibility of receiving \$100,000 for the water project so the City will be asked how these funds would benefit the project. Mayor Roat said he will be attending this meeting in Helena. Originally the City had applied for a \$750,000 grant, which has been ranked very near the end of the ranking process.

CITIZEN REPORT None

OLD BUSINESS - Adoption of 2006 Housing Plan Motion by Reynolds, second by Mahan to adopt the 2006 Housing Plan.

Stauffer said he still has significant problems with the statistical information that is included in the plan. He said he feels the statistics are still foggy or just incorrect. He said he has given several suggestions to the plan that have not been addressed and he feels the current plan does not do the job it is necessary for. Moore said the plan will be a tool to help receive funding. Scanlin also gave several suggestions to the plan that were not addressed or answered. It was said that the statistics are a very important part of the plan and should be reviewed and corrected before the document is properly adopted by the Council.

Motion by Scanlin, second by Kampfe to table this motion until a future meeting. On voice vote all Aldermen present voted "Aye." Motion carried.

NEW BUSINESS - Appointment to Parks Board - Mary Fitzgerald and Dan Seifert Motion by Mahan, second by Reynolds to approve the appointments of Mary Fitzgerald and Dan Seifert to the Parks Board. On voice vote all Aldermen present voted "Aye." Motion carried.

Mayor Roat thanked Trish Yung for her service on this Board.

Appointment of Department Heads Motion by Mahan, second by Reynolds to approve the appointment of Skip Boyer as Public Works Director. On voice vote all Aldermen present voted "Aye." Motion carried.

Motion by Reynolds, second by Stauffer to appoint Tom Kuntz as the part-time Fire Chief. On voice vote all Aldermen present voted "Aye." Motion carried.

Motion by Mahan, second by Lockman to appoint Debbie Tomicich as City Clerk. On voice vote all Aldermen present voted "Aye." Motion carried.

Motion by Reynolds, second by Mahan to appoint Aaron McDowell as the Ambulance Director. On voice vote all Aldermen present voted "Aye." Motion carried.

Motion by Reynolds, second by Mahan to appoint Brent Moore as City Planner. On voice vote all Aldermen present voted "Aye." Motion carried.

Motion by Reynolds, second by Mahan to appoint Jodie Moore as Librarian. On voice vote all Aldermen present voted "Aye." Motion carried.

Motion by Mahan, second by Reynolds to appoint Richard Pringle as Police Chief. On voice vote all Aldermen present voted "Aye." Motion carried.

Council Chairman Mahan nominated Reynolds to hold the position of Council Chairman for the next year. Motion by Mahan, second by Lockman to appoint Reynolds as Council Chairman. On voice vote all Aldermen present voted "Aye." Motion carried.

Mountain View Trailer Court Acquisition Scanlin has been working with various organizations to help obtain control over the land that residents of Mountain View Trailer Park are currently renting as tenants. Some of these are: Rural Community Assistance Corporation, Montana Homeownership Network, Human Resources and Development Council VII of Billings, the HOME program, Rural Development, Community Development Block Grant program and the Montana Board of Housing, all of which have played active roles in presenting the preliminary plan written by consultant Julie Flynn, co-author of the 2006 HRDC study on acquisition of mobile home sites in Montana.

The Mountain View Trailer Park was recently sold to a developer whose interest is in the outside portion of the park, which he plans to develop as commercial property. He would like to sell the remaining property and the Park residents are interested in purchasing the property in order to maintain their housing. There are currently 30 households living in the Mountain View Mobile Home Park. If this land is not purchased by an entity with the current residents' welfare in mind, the current 30 households could

be displaced. The goal of converting this parcel of land to a resident-owned mobile home park has several aspects, with the overarching goal being to preserve and improve an existing source of affordable housing in a community which has fewer and fewer options for low-income households.

Scanlin showed the Council a map of the 6.5 parcel, which begins at West 2nd Street north towards the city limits, west of the commercial frontage on Highway 212 to Hauser Ave. And the top lip of the west bench on the north end of the parcel.

Scanlin said the HOME Program in Helena would be the entity that would give the acquisition grant. The eligibility is up to 60% of the purchase price, which is \$825,000 plus another \$67,000 on the option price. This grant would cut the purchase price in half if received. Julie Flynn's conclusion is that this purchase is feasible and she is prepared to move forward.

Scanlin said that infrastructure costs are being discussed along with other improvements in this area. It is unknown at this time what these costs will be and how they will be shared. This is another aspect to this proposal. These other entities are taking steps in drafting applications for funding to help with this project.

Scanlin said the game plan is to acquire the site. The owner of the property is willing to extend the sale until the 23rd, which is the Council's next meeting. This will allow time to do some negotiations. This proposal does involve certain degree of future land use actions. The Council will need to be prepared to acknowledge if not address. Re-platting of this area will need to be done. The City will have a role in all of this. It will take a year for this sale to be done.

Scanlin said a letter was received from Sam Painter stating that the City is perhaps not authorized legally to back this loan but she said there are other ways of getting backing for this loan and securing the land for the parties that need it. She said the City does need to show support for applying. It can be then confirmed there is no risk to the City in doing this.

Motion by Reynolds, second by Mahan that the City supports the efforts of the Mountain Springs Villa to purchase this property in whatever form or fashion that is deemed legal by the City Attorney. On roll call vote all Aldermen present voted "Aye." Motion carried.

The City will do everything they can to make this venture successful.

CORRESPONDENCE Judge, Carol Anderson, has given the City a letter of resignation that will take effect July 1, 2007. The Administration Committee will work with Judge Anderson to see what qualifications are necessary for this position.

MISCELLANEOUS None

Meeting adjourned at 9:00 p.m.

ATTEST:

Mayor

City Clerk

Corrections to the minutes were made at the January 23, 2007 meeting.