

June 12, 2007

The Red Lodge City Council met in regular session on June 12, 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 MAY 22** Motion by Mahan, second by Kampfe to approve the minutes of May 22 as presented. On roll call vote all Aldermen present voted "Aye." Motion carried

**CLAIMS AGAINST THE CITY** Scanlin said the claims totaled \$183,741.47. The committee recommended payment of all submitted claims except for one totaling \$214.08.

Motion by Scanlin, second by Kampfe 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.

Scanlin told the Council the claim the committee did not approve was for \$214.08 to the Circle Lazy M Homeowners Association. This claim was for sprinkler heads that were damaged by the snowplow. The sprinkler heads however were placed in the City right of way and not on private property. The committee said they would not approve the claim due to the fact that the sprinkler heads are on city property.

Motion by Scanlin, second by Lockman to pay the claim for \$214.08 that was previously denied by the committee. On roll call vote all Aldermen present voted "Nay." Motion failed.

Some of the larger claims for the month were to HKM, \$60,000 for the upcoming project, CTA for \$5,270, \$8000 from the EDA grant, MSU-Billings, \$12,854 from the EDA grant and EDC, \$9100 from the EDA grant.

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

**SPECIAL COMMITTEE** None

**STANDING COMMITTEE – Administration – Ordinance No. 869 – Sewer and Water Impact Fee – First Reading**

**ORDINANCE NO. 870 (caption)  
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
RED LODGE, MONTANA ADOPTING IMPACT FEES FOR  
WATER AND SEWER**

**PREAMBLE**

WHEREAS, the City Council has determined that it is appropriate to adopt impact fees for water and sewer to be used to fund growth related system improvements to promote health, safety, and welfare of the citizens of Red Lodge.

City Attorney Painter asked that the following section be added to this ordinance: 10-9-16 K. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance that shall remain in full force and effect. The City Council declares that it would have passed this

Ordinance, and each section, subsection, sentence, clause and phrase thereof, irrespective of the Partial Invalidity: If any section, subsection, sentence, clause or phrase of this fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

Motion by Reynolds, second by Mahan to approve Ordinance No. 869 on first reading with the changes to reflect the residential rounded and commercial rounded rates on the spreadsheet and to insert paragraph 10-9-16. Before roll call was taken the public was allowed to make comments on the pending ordinance. No one in the public spoke to this ordinance. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Police and Emergency Services** Lockman reported that the fourth position in the fire/ems department has been offered to a candidate. They should know soon if the candidate will accept or not. Salary is an issue for this position. Next Tuesday, June 19, there will be a Wild Land Fire Leadership Council meeting that will bring in people from all over that will set the national wild land fire policies.

**Land Use and Planning – Request for Quit Claim Deed – City Lights** Motion by Mahan, second by Kampfe to approve the quit claim deed for City Lights. On roll call vote all Aldermen present voted "Aye." Motion carried.

When the City approved the City Lights preliminary plat application one condition that was stated was the developer secure access to the subdivision by obtaining a public right of way to provide access to the subdivision. In order to satisfy the condition, the developer obtained a quit claim deed from the adjacent landowners, Frank and Kathy Nienaber, that provides the City a perpetual public right of way across their land.

**Ordinance No. 828 2<sup>nd</sup> Amended – Spires Zoning – First Reading**

**ORDINANCE NO. 828 – 2<sup>nd</sup> AMENDED**

**AN ORDINANCE AMENDING THE GENERAL ZONING ORDINANCE AND ACCOMPANYING MAP THERETO KNOWN AS ORDINANCE 828 AMENDED AS PASSED JULY 25<sup>TH</sup>, 2000, AND AS AMENDED, BY THE ADDITION OF THE ZONING CATEGORY PUD-S TO THE OFFICIAL RED LODGE ZONING MAP AS ATTACHED.**

**BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONANA:**

**RECITALS**

Ordinance No. 828 was previously amended by the Red Lodge City Council on July 25th, 2000 and is referred to and commonly known as the Official Red Lodge Zoning Map, No. 3;

Now, therefore, the City Council of the City of Red Lodge ordains as follows:

**AMENDMENTS**

Whereas pursuant to Section 76-2-301 Montana Code Annotated 2005 (MCA), for the purpose of promoting health, safety, morals and the general welfare of the community, and

Whereas, as required by Sections 76-2-303 and 76-2-305, MCA, the Red Lodge Zoning Commission held a public hearing on this matter on May 23, 2007, and the City Council held two public hearings on this matter on June 12 and 26, 2007, each of which were held and published as required.

Now, therefore, the City Council hereby ordains and enacts:

Section 1. Ordinance No. 828 Amended, and accompanying map thereto, as amended, are hereby further amended in order to zone the following property as Planned Unit Development-Spires (PUD-S).

plat thereof on file and of record in the office of the Clerk and Recorder of said County, under Document No. 324497.

Located in:

The N1/2 of the S1/4, a portion of the NW1/4 of the SE1/4 and a portion of the NE1/4 of the SE1/4 of Section 15, T7S., R20E., P.M.M., Carbon County, Montana.

Section 2. The City Clerk will file a certified copy of this Ordinance with the Carbon County Clerk & Recorder.

Section 3. This Ordinance shall be in full force and effect thirty (30) days after its final adoption by a majority of the elected members of the City Council.

Motion by Mahan, second by Lockman to approve Ordinance No. 828 Amended on first reading. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**Ordinance No. 867 2<sup>nd</sup> Amended – Spires Development Code Changes – First Reading**  
**ORDINANCE NO. 867- 2<sup>nd</sup> AMENDED**

**AN ORDINANCE AMENDING THE THIRD AMENDED RED LODGE DEVELOPMENT CODE PREVIOUSLY ADOPTED THROUGH ORDINANCE NO. 867 INCORPORATING CHANGES IN CHAPTER 5.**

**BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONANA:**  
**RECITALS**

Ordinance No. 867 was previously amended by the Red Lodge City Council on September 26th, 2006 and is referred to and commonly known as the Third Amended Red Lodge Development Code;

Now, therefore, the City Council of the City of Red Lodge ordains as follows:

**AMENDMENTS**

1. The City Council of the City of Red Lodge adopts the following changes to chapter 5:
  - a. Add; 12-5-3.H Planned Unit Development Zoning Districts (PUD) – Add subsection 4. Planned Unit Development – Spires (PUD-S), the purpose of the PUD-S district is to allow for various densities and types of uses that are primarily residential with potential home business and professional uses consistent with those allowed under the PUD-BPR zoning district. The residential uses include single-family, townhouse, clustered condominiums (courtyard cottages) and apartment buildings (multi-family). Refer to the building typology diagrams at the end of this chapter for lot and building envelope requirements. Refer to table 5.2 for performance standards.
  - b. Add; PUD-S Zoning Category to **Table 5.2: Uses by Zoning District – Permitted, Conditional, Prohibited** under the same column as PUD-BPR.
  - c. Add; Building Typology diagrams for unit types in the PUD-S district.

This Ordinance shall be in full force and effect thirty (30) days after its final adoption by a majority of the elected members of the City Council.

Motion by Mahan, second by Lockman to approve Ordinance No. 867 Amended on first reading. Discussion was held on the motion before roll call was taken. On roll call vote all Aldermen present voted “Aye.” Motion carried.

During the discussion phase Scanlin urged the Council to consider omitting overnight transient homes from the permitted uses in this zone. She feels it is easier to restrict transient homes right from the start of this zoning. She was also concerned with the height restrictions in this zoned area.

Russ Squire said his marketing people told him that having deed restrictions imposed on the property, such as transient homes, in the first phase may be a bad idea. It might alienate some of the market area.

The Council was told that great care went into the thought of the heights of houses. The developer does not want all the homes to have the same roof level and be even. They would like a little variety in the homes. The number of floors will be controlled. There can only be three stories to the parapet. Scanlin asked the developers to consider a height maximum on each topology and then if the desire is there to go above this height for a spire then make the request through a conditional use process. Stauffer said he would rather see greater height allowed as he would rather grow up than out.

Amendment made to motion by Scanlin to restrict the height above the parapet wall to an additional 30 feet. There was no second on this motion.

This project is designed for mixed use this zoning is the closest for the intended use. Any conditional uses will go to the Planning Board and then the Council.

Amendment to motion by Scanlin, second by Lockman to restrict in this planned unit development transient housing use. On roll call vote those in favor: Aldermen Scanlin and Lockman. Those opposed: Aldermen Kampfe, Mahan, Stauffer and Reynolds. Motion failed.

Scanlin said she was in favor of house rentals in specific areas but affordable housing is a big issue and she does not want the disruption of the neighborhood with transient housing. Kampfe agrees with the idea of affordable housing and disrupting the quality of life in a neighborhood with transient housing but he does not feel restricting the zoning in this area will solve these problems. He feels the City needs to look at other solutions.

**The Spires Planned Unit Development** Motion by Mahan, second by Lockman to approve The Spires Planned Unit Development. Discussion was held on the motion before roll call was taken. The motion maker and the second withdrew the motion after discussion was held and before roll call vote was taken.

Reynolds opened the public hearing.

Brent Moore gave the staff report on this application. Moore said the following were some substantial changes since the original submittal. There was an increase in sidewalk width from 4 feet to 5 feet throughout the project, there were road cross section amendments, an increase in main water transmission line from 8" to 12" and the addition of an alley on the southern portion of the property linking Lupine Ave and Baneberry Ave. The subject property is approximately 120 acres and located on the north end of the golf course.

The intent of the Spires design is to create a planned community that is similar to the traditional neighborhoods of Red Lodge employing a modified street grid system that has been designed to preserve existing vegetation and wetland features. The planning objectives of The Spires are to achieve a planned community that is efficient with mixed housing types and clearly part of the Red Lodge community while maintaining a distinct neighborhood identity. The applicant is requesting the following entitlements through the PUD application. They are requesting approval of the overall Master Plan, approval of land use types and densities, approval of generalized circulation system including internal and perimeter roadways and the internal pedestrian trail system, approval of the generalized water, wastewater and storm water systems and approvals of the generalized open space and park system, specifically to the total quantity of open space and parks. A land use summary of the proposed PUD-S zoning was included within the application material.

The subject property currently lies outside of the jurisdictional limits of the City. The City resolved to annex the property and negotiated with the applicant an annexation agreement for the extension of services. This request for zoning is for a PUD. The property is adjacent to PUD-R and PUD-BPR zoning districts within the City of Red Lodge to the south, and is adjacent to unzoned property to the north, east and west.

Russ Squire gave the Council a brief power point presentation explaining the agenda of this development from the beginning. It showed the layout of the development, street layout and park areas.

Bruce McKee said the street layout is very similar to Country Club Estates except there is more enclosed park space, more green, more trees and more irrigation ditches. All the streets flow north and south. Two streets access the property. Larkspur and Evening Star are the two access streets with no parking. Bruce further showed the layout of the streets and the sidewalks and boulevards associated with them.

The water lines will be installed in a manner that will allow for further development. Fire hydrants will be put into the development as asked by Chief Kuntz. Natural gas lines, power and telephone lines will all be buried.

Millie Carson asked what the starting price of the smallest unit would be. Russ Squire told her he is sorry but he has no prices as of yet.

Norm Mance asked if solid waste pickup is being addressed. He was told the pickup would be the same as it is currently being handled as part of the contract the City currently has for solid waste collection.

Reynolds continued the public hearing until the next meeting on June 26, 2007.

Stauffer asked if the trees put in at the entryways would be mature trees. He was told they would find the largest trees that grew the quickest. A lot of the trees that will be used are already in place.

Scanlin asked the developers if they would be willing to consider donating four lots for affordable housing. Russ Squire told her that in subsequent phases he has heard her request on this matter.

**The Spires First Phase Preliminary Plat – Major Subdivision – Public Hearing** Reynolds opened the public hearing. Brent Moore gave the staff report for this major subdivision. The owners are Ron and Darlene Luoma with the applicant being The Spires at Red Lodge, LLC. This application is for 32 acres located on the western portion of the project. It includes 62 single-family lots and 4 condo lots with 8 units per lot. The property will be zoned PUD after the second public hearing is held on this matter.

The substantial changes since the original submittal are increased sidewalk width from 4 feet to 5 feet throughout the project. Road cross-section amendments. Increase in main water transmission line from 8” to 12”. Addition of alley on the southern portion of the property linking Lupine Ave. and Baneberry Ave.

A description of the wastewater treatment is included in the HKM study, describing the current MPDES permit the City is operating under. A municipal facilities exclusion has been approved by MDEQ, allowing for connection of these additional units. The MDEQ recommended the City continue working on a Capital Improvements Program, anticipating the need for upgrades to the sewer ponds within the next two to five years.

Moore said that park dedication meets requirements of local code and state statutes.

No one from the public spoke during the public hearing with any questions or comments.

Reynolds continued this public hearing until the next scheduled meeting.

**Public Works – Landfill Use Agreement with the City of Billings** Motion by Mahan, second by Lockman to approve the new Landfill Use Agreement with no changes. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**Resolution No. 3237 – Resolution of Intent – Raise Water Rates**

**RESOLUTION NO. 3237**

**A RESOLUTION OF INTENT TO INCREASE THE CITY OF RED LODGE WATER RATES TO BECOME EFFECTIVE ON AUGUST 1<sup>ST</sup> AND SETTING A DATE AND TIME FOR A PUBLIC HEARING.**

WHEREAS, the current water rates and charges in effect at the present time are not adequate to provide revenues with which to defray the increased costs of operation, maintenance, and capital of the City’s water distribution facilities and systems; and

WHEREAS, the provision of the water systems and facilities is essential to the preservation of the public's health and welfare; and, that the new rates, must before taking effect, be approved by the governing body of the City Red Lodge in accordance with the Rules and Regulations governing Water and Waster Water Service for the City of Red Lodge, Chapter 8, Section 1, as previously adopted by City Council Ordinance 835; and

WHEREAS, current budgetary requirements with respect to the operation of said facilities and as well as on-going and future projects contemplate the proposed rates becoming effective by August 1st, to enable the City to proceed as expeditiously as possible to accomplish the objectives herein above recited; and

WHERAS, the City Council has determined that a public hearing should be held to gather public input regarding the proposed increase in water rates.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA:

1. That the City Council of the City of Red Lodge, considers it both advisable and necessary to increase the municipal water rates for all users, residential and commercial, and the proposed increases for rates are specifically shown in the schedule marked "Alternate Exhibit A", that is attached hereto and hereby incorporated into this Resolution by reference.
2. That a public hearing shall be held on July 2, 2007 in the City Council Chambers, at City Hall, Red Lodge, Montana, at 9:00 a.m., for the purpose of gathering and receiving input and comments from all interested or affected persons, associations, corporations and/or companies.
3. Notice of the hearing shall be published once a week for three consecutive weeks in the *Carbon County News*, a newspaper that conforms to the requirements of MCA § 7-1-4127, and the first such publication shall not be more than twenty-eight (28) days prior to the hearing and the last publication shall be not less than three (3) days prior to the hearing, in a form substantially similar to the Notice of Public Meeting marked and attached hereto as "Exhibit B".
4. Additionally, the notice of the hearing shall be mailed at least seven (7) days and not more than thirty (30) days prior to the hearing to all persons who are water customers and served by the City of Red Lodge. The notice shall contain an estimate of the amount the customer's average monthly bill will increase.

**ALTERNATE EXHIBIT A**

**1 MONTHLY SERVICE CHARGE**

The basic service charge applies to all metered water services and includes 3,000 gallons of water usage per month.

<u>Meter size</u>	<u>Old Rate</u>	<u>New Rate</u>
0.75-inch	\$14.34	\$21.00
1.0- inch	\$15.50	\$30.00
1.5-inch	\$19.94	\$36.00
2,5-inch	\$50.28	\$65.00
3.0-inch	None	\$150.00
4-inch	None	\$300.00

**2 WATER QUANTITY CHARGE**

All customers will be charge the following rates per 1000 gallons

	<u>Old</u>	<u>New</u>
0 to 3,000 gallons per month	\$0.00	\$0.00
3,001 to 8,000 gallons per month	\$1.88/1000 gallons	\$3.77/1000 gallons
8,001 to 20,000 gallons per month	\$1.88/1000 gallons	\$4.95/1000 gallons
Over 20,000 gallons per month	\$1.88/1000 gallons	\$6.25/1000 gallons

Motion by Mahan, second by Lockman to approve Resolution No. 3237 of intent to increase the City of Red Lodge water rates using alternative exhibit A becoming effective August 1, 2007. On roll call vote all Aldermen present voted "Aye." Motion carried.

A special public hearing meeting will be held July 2, 2007 at 9:00 a.m. The public will receive a mailing giving information in regard to this rate increase and the time of the public hearing. Ray Armstrong told the public that this rate increase has nothing to do with any new subdivision but that the rate increase is long over due.

**Interim Financing – 2007 Water Project** The City will need to use interim financing on the upcoming water project with the loan from Rural Development being the final payoff. The interim financing will be used only while the project is being completed. The Council decided they would like to stay local with this financing. The interest rate for US Bank was lower but the Council was concerned with the variables and the interest percent offer was made May 14 with interest rates going higher.

Motion by Mahan, second by Lockman to approve First Interstates Bank loan terms at 5.34%. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Street Closure and Open Container Request – 12<sup>th</sup> Street** The Beartooth Rally Street Dance is requesting permission to close 12<sup>th</sup> Street west from Broadway to the alley. They are also requesting permission for open container. The closure is for July 19, 20 and 21 from 8:00 a.m. to 12:00 p.m.

Motion by Kampfe, second by Lockman to approve the street closure and open container request of 12<sup>th</sup> Street. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Street Closure and Open Container Request – 13<sup>th</sup> Street** Motion by Kampfe, second by Lockman to approve the street closure and open container request on 13<sup>th</sup> Street. On roll call vote all Aldermen present voted "Aye." Motion carried.

This request is to close 13<sup>th</sup> Street between Broadway and the east side alley. The requested closure begins at 8:00 a.m. July 19<sup>th</sup> and continues until 6:00 p.m. July 22<sup>nd</sup>.

Stauffer said he would like to see this closure be done on different streets each year. He feels the event is good but it may help if the closure was to move. He said in the last eight years the closure has gone from one day to four days. He feels this is getting to be excessive. He also would like to see the ending conclusion be 10:00 p.m. rather than midnight. Scanlin said she would like to see the event moved up to the rodeo grounds area. She feels the area in town is too tight between residential and downtown for this type of closure and event. Kampfe said he would like to give this closure a chance and feels the organizers of the event will have to watch and listen to the concerns expressed by the Council and citizens. The new owner of the Blue Ribbon Bar said he has listened to the thoughts of the Council and said he is willing to discuss all concerned issues before the event is held next year.

**Road Crowns and Drainage – Jeff Wise** Mr. Wise wrote the Council a letter along with pictures addressing the condition of roads in town and how they relate to curbs or the lack of curbs in some instances and sidewalks with runoff and icing in the winter. He would like to see some sort of comprehensive plan addressing the issues he discussed in this letter and then have the plan followed. Mahan told Mr. Wise that the Public Works Committee would respond to him within a couple of months to let him know what direction the City will be going. The committee will meet with Boyer to see what his plans are in this direction.

**CITIZEN REPORT** None

**OLD BUSINESS** A budget workshop was scheduled for June 19<sup>th</sup> from 3:00 – 5:00 p.m. with department heads.

**NEW BUSINESS – Use of City Property – Leo Wilson** Leo Wilson asked permission to use the grounds from Highway 78 to the rodeo grounds starting July 19<sup>th</sup> through July 22<sup>nd</sup> for camping. He said there will be a total of six porta-potties placed on the premises. Insurance will be provided and BFI will be providing trash removal. City Attorney, Sam Painter, recommended the City enter into a lease agreement for this use of property by the suggestion of MMIA.

Motion by Stauffer, second by Mahan to approve the use of City property for this event as has been done in the past with all conditions met. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Amendment to motion by Lockman, second by Kampfe to approve the motion as done in the past to also include the lease agreement suggested by City Attorney, Sam Painter. On roll call vote those in favor: Aldermen Kampfe, Lockman, Scanlin and Reynolds. Those opposed: Aldermen Mahan and Stauffer. Motion carried.

**Solid Waste Recycling** Norm Mance has made the request of the Council for more help with the recycling pickup. The Public Works Committee will address this issue during budget sessions to see what can be done.

## **CORRESPONDENCE**

## **MISCELLANEOUS**

Meeting adjourned at 10:00 p.m.

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Mayor

ATTEST:

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City Clerk

Minutes corrected at the July 10, 2007 meeting.