

May 27, 2008

The Red Lodge City Council met in regular session on May 27, 2008 at 7:00 p.m. The meeting was called to order by Acting Mayor Mahan followed by the Pledge of Allegiance to the Flag.

ROLL CALL OF OFFICERS Present: Acting Mayor Mahan, Aldermen Kampfe, Lockman, Stauffer, Kennicott and Priest. Absent: Mayor Scanlin.

Mayor Scanlin was invited to participate in Senator Hilary Clinton’s activities in Billings before the State primary.

MINUTES OF MAY 13 Motion by Stauffer, second by Lockman to approve the minutes of May 13 as corrected. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Stauffer stated that the hospital facility is approximately 80% reverse frontage compliant. The minutes of May 13 stated the clinic was approximately 60% reverse frontage compliant and it was felt the percentage should be stated regarding the hospital facility itself.

Kennicott corrected paragraph two under Beartooth Hospital and Health Center Revised Site Plan, the following sentence to read “The revised site (plat) plan complies with condition #5.” She also corrected the acronym used for Domestic & Sexual Violence Services to state DSVS rather than DSVC.

SPECIAL COMMITTEE – Large Events Priest felt the comments on the discussion regarding large events were too far apart to be reconciled so he felt people should have the benefit of hearing each others comments before going further with this ordinance. There were significant differences indicating further discussion was necessary. This will be put on the next agenda for further discussion.

STANDING COMMITTEES – Administration – Resolution No. 3254 – Budget Resolution – Mountain Springs Villa

**BUDGETARY AUTHORITY RESOLUTION
RESOLUTION NO. 3254**

WHEREAS, on May 1, 2008, the City of Red Lodge received CDBG funds in the amount of \$450,000, for which no provision was made in fiscal 2008 City budget; and

WHEREAS, cities may appropriate federal or state money received during the fiscal year by formal resolution,

NOW, THEREFORE, BE IT RESOLVED that the City of Red Lodge Council hereby appropriates the sum of \$450,000 and directs the City Clerk to allocate said amount to the following program activities:

<u>EXPENDITURE CODE</u>	<u>ADMINISTRATION COSTS</u>	<u>ACTIVITY COSTS</u>
Grant Administration	\$29,400	
Relocation		\$75,600
Construction		\$345,000
Totals	\$29,400	\$420,600

Motion by Kampfe, second by Kennicott to approve Resolution #3254, Budget Resolution. On roll call vote all Aldermen present voted “Aye.” Motion carried.

This resolution is to record the grant received from CDBG to help do the infrastructure in Mountain Springs Villa. The City will be the pass through source for the funds.

Stauffer asked what would be the relocation and what would be the construction. Sanderson said the relocation would be to take the existing manufactured homes within Phases 1 and 2 and move them out while improvements are being done on water, sewer and streets. The \$345,000 construction will help to defray the costs on infrastructure.

Solid Waste Contract - Allied Waste The Council was provided with a draft contract from Allied Waste to review. The contract was based on the RFP the City had written to collect municipal solid waste from the residents for the next five years. The contract follows all the requirements stated in the RFP including bear resistant containers and increased and expanded recycling within the residential areas. Sanderson said the Mayor would be tasking the Administration Committee to go through contract negotiations and finalization with Allied Waste. Sanderson said the commercial cardboard pickup was deleted at the direction of the Mayor, as it would have been an additional cost of \$4.74 a month for every residential unit to subsidize the commercial cardboard collection. It was felt this would not be fair to the residential community.

Capital Improvements Plan Sanderson said the department heads met with Morrison & Maierle – Beck along with some of the Council members. He said there was a minor adjustment in terms of direction driving the CIP. This may drive a short delay in delivery of the CIP from Morrison and Maierle. The CIP will come before the Council on the June 10 meeting.

Library Board Appointment – Jack Exley The Mayor asked concurrence of the Council on the appointment of Jack Exley to the Library Board. Dr. Exley has lived in Red Lodge for five years and would like to serve the City by sitting on this board.

Motion by Stauffer, second by Kennicott to concur with the Mayors appointment of Jack Exley to the Library Board. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Family Health Insurance Tom Kuntz gave the Council information regarding the potential of the City giving employees help with insurance for dependents with either a percentage of the cost or a fixed dollar amount. This has been discussed previously in the last year. There will be no changes in the current carrier or the current plan. Kuntz said there are variables in what the cost would be depending on direction the Council chooses to go and how much help they may choose to give. The mills for health insurance are outside of the mill levy cap. The increase in the insurance will be off set by increasing the mills for the permissive health insurance levy fund. The City is currently in the open enrollment phase of the health insurance and the decision needs to be done now so applications can be submitted by June 1.

Kennicott asked Kuntz what he thought the percentage amount would be if the Council chose to do this for the employees. Kuntz said he thought 70% would be fairly standard.

Motion by Stauffer, second by Lockman to request that the Mayor ensure that forms are submitted to MMIA in time to add health insurance coverage this year for employees, their spouses and their families, and that the exact terms of such insurance coverage will be determined as responsibly as possible by Council and/or staff members appointed by the Mayor, by the stated deadline of June 1 for filing applications. On roll call vote those in favor: Aldermen Mahan, Lockman, Stauffer and Kennicott. Those opposed: Aldermen Kampfe and Priest. Motion carried.

Stauffer said the City needs to be family friendly and needs to set an example. He feels it is worthwhile to help employees insure their families and that it will help with the functioning of the City and the economic development of the City in the future.

Kampfe said he believes in the value of adding health insurance for dependents but he feels he is not prepared at this time to raise taxes. He feels he needs more specifics on how many people would use this benefit and what the cost would be to the City. He feels the motion is too open. Kuntz pointed out this information was presented to the Council in the past budget year and has been talked about again this year prior to this point. The deadlines were clearly set before this current meeting.

Kennicott thought a percentage was a better route to go but she said she also is uncomfortable not having a fixed dollar amount for the cost to the City and also in raising the taxes.

Priest said the Salary and Benefit Survey would not be completed before this action needs to be taken. Kuntz pointed out that the salary survey was also to be completed by January of this year and that was not done. Priest said this would then give the Council a sense of what other communities were doing. Priest asked that the City be careful on what is decided upon until the dollar amounts are known as once given it cannot be taken back.

Police and Emergency Services – Hire Part-time Police Officer Subject to Background Check – Ralph Dawson Mayor Scanlin is recommending the hire of Ralph Dawson as a part-time police officer. Mr. Dawson is from Bridger and has previously worked for the City during the Beartooth Rally.

Motion by Kampfe, second by Priest to concur with the hire of Ralph Dawson as a part-time police officer subject to a background check being completed. On roll call vote all Aldermen present voted “Aye.” Motion carried.

RFP for Salary and Benefit Survey Sanderson told the Council that 140 RFP’s were mailed to CPA’s in this region. Sanderson received only one application back by the deadline of May 23. Kennicott said she could find nothing on any of the CPA sites on the computer that indicated they did salary and benefit surveys. She then went to a website on Human Resources and immediately found several sites where these surveys were done. Sanderson said he got responses from several CPA’s but they indicated they could not complete the task in the timeframe given by the City. Sanderson said he would visit with the Mayor on this subject to see what will be done next. Stauffer said he would like to see “resort community” included in the criteria under comparable communities as this does so much to the housing in Red Lodge.

Land Use and Planning – Mountain Springs Villa Major Subdivision This project is essentially a subdivision in reverse coupled with the creation of a subdivision by lease or rent. The proposal is to aggregate lots within Block 95, plat new street rights-of-way and to add four new manufactured home spaces to the existing manufactured home park on the subject property. In addition to the aggregation and creation of new spaces, the application proposes to vacate and abandon portions of existing road and alley rights-of-way as well as new road rights-of-way will be dedicated to the City. This will create 32 manufactured home spaces.

Sanderson said the Planning Board is recommending approval subject to 22 listed conditions.

Stauffer asked about condition #11 regarding the addresses for the units being approved by the R.L. Fire Department. He asked if this condition could be changed to add approval from the Community Development Department. Stauffer would also like to see the following change to condition #20: The request to abandon 10-feet of the existing right-of-way for Hauser Avenue is (disapproved) **denied**. Stauffer said that changing the verbiage to denied would follow the language in the State law. Stauffer again stated that the travel lane is too wide. He said it is detrimental and said the wider a travel lane gets the faster the traffic gets. He has stated this with each project and still feels it is something that should be addressed.

Kampfe said he liked the dedicated parkland, which is the hillside that borders Country Club Estates and he hopes some connecting trails to the west bench can be constructed for walking and biking. This would better connect Red Lodge.

Sanderson answered Stauffer’s concern with condition #11 by stating that the Fire Department has taken over addressing and has done a very good job with consistency and applying the Development

Code in the process. He encouraged that no change be made in condition #11. He said he concurred with the change in condition #20 by changing disapproved to denied.

Motion by Kampfe, second by Stauffer for the adoption of Staff Report Number MJR-08-02 as findings of fact. Further I move the approval of the Amended Plat Lots 13 thru 27 Block 95 Original Plat of Red Lodge, Lot 12 Amended and Lot 28 Amended, Block 95 of Plat No. 2226RB, Tract A of Certificate of Survey No. 1121, Tract 1B Amended of Certificate of Survey No. 1285 3rd Amended Lying in the City of Red Lodge and located in the SE1/4 Section 27, T.7 S., R. 20 E., P.M.M., Carbon County, Montana subject to the following conditions:

1. That the revised preliminary plat be in accordance with the plat, plans and specifications submitted for preliminary review except as modified by these conditions.
2. That the existing and proposed plans for the provision of municipal water and sewer to the subdivision be reviewed and approved by or exempted from review by the MDEQ.
3. That all public and private utilities in the alleys to be abandoned are relocated by the developer to the new public rights-of-way or that easements in favor of the existing public and private utilities are submitted with the revised preliminary plat.
4. That the new streets proposed within the subdivision be dedicated to the City of Red Lodge with the revised preliminary plat.

5. That as a result of granting approval of the preliminary plat, the Right-of-Way for Second Street is declared open to public use. As such, any improvements or encroachments must either be removed by the developer or permits from the Red Lodge Public Works Department for the encroachment(s) is obtained prior to filing for revised preliminary plat approval.
 6. Fire hydrants must be installed by the developer such that a hydrant is located within 150 feet of each lot within the subdivision.
 7. The developer shall extend the City water main from its existing locations such that City water services are available to each unit within the subdivision. Said extensions must be approved by the Red Lodge Public Works Director.
 8. That the developer shall extend the existing City sewage collection system such that each lot in the subdivision is served by the City sewage collection system. Said extension must be approved by the Red Lodge Public Works Director.
 9. That the project may consist of three (3) phases to be filed in accordance with the plan contained in the preliminary plat submittal documents.
 10. That the developer may bond for improvements required by this approval in accordance with the Red Lodge Subdivision Regulations.
 11. That all new road names and proposed addresses for the units within the subdivision shall be approved by the Red Lodge Fire Department prior to filing the revised preliminary plat.
 12. That the portion of 'East Hauser' within Block 95 is designated as a local street as provided by Table 4.2 of the Red Lodge Development Code. (50-foot right-of-way required)
 13. That the portion of 'East Hauser' within the balance of the subdivision is designated as a collector street as provided by Table 4.2 of the Red Lodge Development Code. (60-foot right-of-way required)
 14. That sidewalks a minimum of five (5) feet in width shall be installed on both sides of all streets within the boundaries of the subdivision.
 15. That two (2) off-street parking spaces shall be provided for each dwelling unit within the subdivision. Said parking spaces shall meet the minimum standards of the Red Lodge Development Code.
 16. That the aggregation of lots within Block 95 is approved. The developer is required to record an Amended Plat of Block 95 prior to submitting the revised preliminary plat for phase 1, Mountain Springs Villa.
 17. The Developer shall plat a one-foot no access easement along Hauser Avenue in Block 95. In doing so, the Hauser Avenue portion of the lots shall be deemed by the City to be the rear property line for zoning purposes.
 18. The Developer shall plat a one-foot no access easement along First and Second Streets within the subdivision.
 19. The east-west alley within Block 95 is abandoned at the time of filing of the revised preliminary plat.
 20. The request to abandon 10-feet of the existing right-of-way for Hauser Avenue is denied.
 21. That the request to reduce the required setbacks of the underlying zoning district must be submitted to and approved by the Red Lodge Board of Adjustment. If said variance is not approved, all development within the subdivision shall meet or exceed the underlying standards of the Red Lodge CEZD Zoning District.
 22. That this approval is valid for three years from the date of approval by the City Council.
- On roll call vote all Aldermen present voted "Aye." Motion carried.

Chris Clark, Project Engineer, was asked if he had any questions or issues to discuss. He said he has no objections to any discussion or the motion that was presented.

Resolution No. 3253 – 2008 Growth Policy – Resolution of Intent

RESOLUTION NO. 3253

A resolution of intent by the City Council of the City of Red Lodge to adopt the 2008 Red Lodge Growth Policy and creation of a 30-day public comment period.

WHEREAS: The Red Lodge City Council tasked the 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: The City Council of the City of Red Lodge is desirous of providing persons who may be effected by the adoption of the Growth Policy as much opportunity for involvement in the adoption process, 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.

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Red Lodge, Montana to adopt Resolution of Intent Number 3253 and hereby open a public comment period for 30 calendar days during which persons may comment upon the Growth Policy. Said comment period will expire upon June 28, 2008. Further, notice of the passage of this resolution of intent shall be published in the Carbon County News not less than twice during the comment period.

Persons desirous of commenting upon the Growth Policy shall submit their comments in written form to:

City of Red Lodge

GROWTH POLICY COMMENTS

City Clerk

P.O. Box 9

Red Lodge MT 59068

BE IT FURTHER RESOLVED, by the City Council of the City of Red Lodge, that following the closure of the comment period that the City Council will by Resolution adopt, adopt with revisions, or reject the Growth Policy prepared by the Planning Board at a time and date of the choosing of the City Council.

Sanderson said this resolution will activate a thirty-day public comment period. After this comment period the Council will be presented with another resolution to adopt the Growth Policy.

Motion by Kampfe, second by Lockman that the City Council adopts Resolution of Intent Number 3253 and hereby open a public comment period for 30 calendar days during which persons may comment upon the Growth Policy. Said comment period will expire upon June 28, 2008. Further, notice of the passage of this resolution of intent shall be published in the Carbon County News not less than twice during the comment period. On roll call vote all Aldermen present voted "Aye." Motion carried.

Use of City Property – G-Dawgs – Gary Kisthard Gary Kisthard is requesting the use of city property to sell his hot dogs on the NW corner of 12th and Broadway and NE corner of 13th and Broadway. Mr. Kisthard sells from 9:00 a.m. to 4:00 p.m. Sunday through Saturday on the 12th and Broadway intersection and on Friday and Saturday nights from 9:00 p.m. to 3:00 a.m. on the 13th and

Broadway intersection. Sgt. Cope signed the application but stated he would like Mr. Kisthard to stay out of the yellow zone. Kisthard has a business license and is in the process of obtaining the required insurance. Notice was given to surrounding businesses. Kisthard asked the Council to consider the possibility of defraying the amount of the required \$1,000,000 insurance as he said it is hard for a smaller business person to be able to afford this insurance.

Mahan read from the M.C.A. what it states regarding parking and the yellow zone. It states there will be no parking within 20 feet of an intersection. She also read the description of vehicle from the dictionary, which states the hot dog stand would be considered a vehicle and cannot then be parked in the yellow zone.

Motion by Kampfe, second by Stauffer to approve Gary Kisthards application for use of City property at NW corner of 12th at Broadway and the NE corner of 13th at Broadway with the following conditions: 1) that he provides proof of \$1,000,000 insurance and 2) that he remains 20 feet from the intersection and not be in the yellow zone. On roll call vote all Aldermen present voted "Aye." Motion carried.

The Council commented that they enjoy Mr. Kisthards business and that it is a nice addition to the business area. The concern is how many applications might come before the Council such as this one and what kind of precedence is being set.

Priest explained that \$1,500,000 insurance is something that cannot be purchased. He said that special events are all covered by City insurance and he thinks the reason the City requests the insurance is to have the applicant be insured. MMIA recognizes it is very expensive to purchase what amounts to \$2,000,000 of insurance so they created a special event category of insurance. This is a rider to the City's insurance and is less expensive. Priest said there would be some events that would not be covered by the City policy. Priest said the insurance requirement may need to be revisited at some time.

Diamond C Links and Colt Communications – Final Plat Sanderson said that both of these final plat applications will be presented to the Council at the June 10 Council meeting.

DSVS Sanderson said this application has been withdrawn as a new location has been found.

Public Works – 212 North Phase 2 Waterline Extension – Award Bid The Montana DEQ has reviewed and approved the engineering design for the construction of Phase 2. The City has contracted with HKM Engineering to provide certified inspection for the construction of the Highway 212 North Phase 2 waterline extension project. Bids were opened on May 8 and HKM has certified the bids as being complete and meeting specifications required by the City. The bids ranged from \$251,000 to \$522,719.01 with the engineers estimate being \$491,276. There is an anomaly with the low bid submitted by Williams Plumbing and Heating. With the bid package the contractor was requested to sign a "Liquidated Damages Form". The liquidated damages form is a requirement prior to the execution of a contract but is not required at the time a bid is submitted. Per the bid package, the City Council has the authority to waive any non-material defects or deficiencies and award the project to the lowest most responsive bidder.

Sanderson said the finding of fact is that the failure to sign the Liquidated Damages Form with the bid package is not a material defect in the package submitted by Williams Plumbing and Heating. The

second finding of fact is the City Engineer has certified that the bid submitted by Williams Plumbing and Heating is the lowest most responsible proposal submitted to the City on the Highway 212 North Phase 2 Waterline Extension Project.

Motion by Kampfe, second by Priest to adopt the findings of fact contained in this report. Further, I move to award the Highway 212 North Phase 2 Water Line Extension Project to Williams Plumbing and Heating based upon their bid of \$251,000. On roll call vote all Aldermen present voted "Aye". Motion carried.

Change Order Approval Process – USDA Sanderson said that since USDA-RD is funding a large part of the 2007 Water Rehabilitation Project the City is required to follow their procedures for the approval of any change or modification to the plan approved by USDA. If the City fails to follow the procedure, USDA can deny access to the contingency funds set aside. Sanderson said that so long as the City remains under the \$417,000 contingency that is in the budget we will remain within the spending authority given to the Mayor.

Sanderson explained the process details of a change order. If a change in conditions, problem or other defect with the project is identified the contractor, PWD and Engineer will meet to discuss solutions to the change in conditions, problem or defect. An acceptable solution will be agreed upon. The Engineer prepares a Work Change Directive (WCD) and submits it for the Mayor's signature. The WCD must contain an estimate of cost and once signed parts can be ordered and work performed. Once the WCD is signed a copy will be sent to USDA. A formal Change Order with cost and time frames for completion are submitted by the Engineer and approved by the Mayor. The Change Order is presented to the Council at the next scheduled meeting. The Engineer will attend the meeting to answer any questions concerning the Change Order. USDA-RD funds can be used to pay the costs associated with the Change Order.

Motion by Lockman, second by Stauffer to approve the process for the processing of a Change Order as required by USDA-RD. On roll call vote all Aldermen present voted "Aye." Motion carried.

2007 Waterline Rehabilitation Project Engineer, Andy Mattie, reported to the Council that this project is going ahead very well. He said the two necessary crossings on Highway 212 on the south end of town have been completed. He said a 30-inch steel casing was put under the Highway. Excavation is being done for the water tank and this is also going very well. The work has started on McGillen from 20th Street to 15th Street. Mattie said they are digging up a lot of existing services going to individual houses and accessing these lines. He said by the end of the week there should be temporary water lines in this area. The water line on McGillen will then be replaced. Mattie said they are working very hard at keeping the citizens in the area informed on what the process is on this project.

Spires at Red Lodge Proposed Warranty Bond Sanderson said the Spires 1A and 1B are final platted. They had a construction bond in excess of \$2,000,000. Subdivision regulations require the City to hold back 25% of the construction bond to guarantee that the required improvements get installed. Russ Squire has submitted a time line whereby the balance of the required improvements will be completed, hopefully inspected, certified and accepted by the City. Squire would then request to draw the \$500,000 to pay bills. At that point in time, assuming everything has been inspected, certified, and accepted the City would then require a warranty bond equal to 10% of the parent contract to guarantee improvements for one year. Squire is proposing a slightly different method of warranty than the City is accustomed to. Sanderson received these documents today and will be forwarding them to the City Attorney to review. This will then be coming to the Council at a later meeting.

Carbon County Handicapped Parking Request Sanderson reported the agreed upon location for the handicapped parking space for the Carbon County Administration building will be on Oakes Avenue, extending approximately 21 feet north of the intersection of West 11th Street. Carbon County is willing to pay for the signage and the cost of the curb cut at the intersection. They have asked the city to paint the curb blue. The proposed location has good storm drainage and is located along the early route for snow removal and widening.

Landfill Agreement 08-09 – City of Billings The City of Red Lodge uses the landfill owned by Billings for the disposal of solid waste. The agreement for fiscal year 08-09 has no changes from the 07-08 agreement currently being used.

Motion by Stauffer, second by Lockman to approve the Landfill Agreement 08-09 with the City of Billings as presented. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Hire Seasonal City Forester – Domenic Muth The City received a DNRC Grant to do a survey of the City’s trees. Three qualified applications were received for the job of doing this survey. The Parks Board and the Public Works Director agreed to the hiring of Domenic Muth for this summer grant work.

Motion by Kampfe, second by Lockman to concur in the hiring of Domenic Muth as the City Forester. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Hire Pool Employees The Public Works Director has asked for the hiring of Darcy Klessens, Kaitlin King, Jamie Stevens, Casey Cash, Christie Kohley, Jordon Going and Darcy Stevens for summer work at the swimming pool. These hires are for lifeguards and teaching swimming lessons.

Motion by Lockman, second by Stauffer to approve the hiring of the seven proposed applicants as pool lifeguards and lesson givers for the pool. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Hire Water/Sewer Operator Mayor Scanlin has asked the Council to hold off on this action until the next Council meeting. Three applications were received for this position.

Motion by Stauffer, second by Lockman to table this action until the June 10 Council meeting. On roll call vote all Aldermen present voted “Aye”. Motion carried.

CITIZEN REPORT Marie Olson gave the Council her comments on the large event items proposed by the Committee. She would like these comments to be reviewed and she will attend the next Council meeting where this issue will be discussed.

OLD BUSINESS Lockman said the hiring process has been completed for the replacement of Mike Stief. She said the position has been offered to Kyle Starr and he has accepted.

NEW BUSINESS None

CORRESPONDENCE Priest said he received a letter from a citizen stating they had witnessed a child trying to cross Highway 78 on a bicycle. The traffic was going very fast past his house located at the intersection of Hauser and 3rd Street. The traffic on this Highway seems to travel well over the speed limit. Priest feels there will be more letters received on the traffic in this area as people are

getting very concerned. This is a big issue but the options are unknown. Priest wanted this brought to the attention of the Council.

MISCELLANEOUS Mahan reported to the Council that there had been an avalanche on the pass at mile marker 51. Eight people were temporarily trapped with no injuries being reported.

Meeting adjourned at 9:40 p.m.

Mayor

ATTEST:

City Clerk