

October 13, 2009

The Red Lodge City Council met in regular session on October 13, 2009 at 7:00 p.m. The meeting was called to order by Mayor Scanlin followed by the Pledge of Allegiance to the Flag.

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

MINUTES OF AUGUST 25 Motion by Mahan, second by Labrie to approve the minutes of August 25 as presented. On roll call vote those in favor: Aldermen Kampfe, Mahan, Richter and Labrie. Those abstaining due to absence at meeting: Aldermen Kennicott and Priest. Motion carried.

MINUTES OF SEPTEMBER 22 Motion by Mahan, second by Labrie to approve the minutes of September 22 as presented. On roll call vote those in favor: Aldermen Mahan, Richter, Labrie, Kennicott and Priest. Those abstaining due to absence at meeting: Aldermen Kampfe. Motion carried.

MINUTES OF SPECIAL MEETING OCTOBER 6 Motion by Mahan, second by Kennicott to approve the minutes of the special meeting held on October 6. On roll call vote all Aldermen present voted "Aye." Motion carried.

MINUTES OF SPECIAL MEETING OCTOBER 6 Motion by Mahan, second by Richter to approve the minutes of the special meeting held on October 6 after corrections were made. On roll call vote all Aldermen present voted "Aye." Motion carried.

Mayor Scanlin asked to correct the minutes of October 6 to state: "The **Mayor and** Council thanked everyone involved for the hard work they have done regarding this project."

CLAIMS AGAINST THE CITY Motion by Kampfe, second by Kennicott that claims against the City totaling \$283,441.54 approved by the Auditing Committee, be paid and warrants drawn on their respective funds in payment. On roll call vote all Aldermen present voted "Aye." Motion carried.

Kampfe pointed out some of the larger claims that were paid this month. Riverside Sand and Gravel was paid \$122,400 for 2nd Street reconstruction for Mountain Springs Villa and Cabins on Cooper. Brenntag Pacific Inc. was paid \$4914 for salt to mix in with the sand for ice and snow on the streets. NeighborWorks Montana was paid \$10,133 for the Mountain Springs Villa project. The City acts as a flow through agency for HOME funds that are being used to help citizens with down payments to purchase homes. Carbon County Abstract and Title was paid \$29,114 with these funds for a down payment.

OFFICERS REPORTS Mayor Scanlin said the unaccounted water use has gone down considerably this month. It is unknown what has contributed to this reduction.

COMMENTS FROM PUBLIC None

SPECIAL COMMITTEE – Large Events Committee Priest said that Commissioner Prinkki attended the last committee meeting that was held. Priest said the County would be willing to cooperate with the City in events that are held closer to where the City-County lines meet. It is hoped that the City and County can work well together regarding large events. The committee feels it is worth trying to draft an ordinance based on County cooperation. The County has now put in place their own Large Event Ordinance.

STANDING COMMITTEE – Administration – Ordinance #878 – Business Registration Ordinance – Classifications and Fees – 1st Reading

Ordinance 878

TITLE 3 – BUSINESS REGISTRATION CERTIFICATE

CHAPTER 1 – GENERAL BUSINESS REGISTRATION

3-1--1	Introduction and Purpose
3-1--2	Definitions
3-1--3	Applicability
3-1--4	Multiple Businesses and Branch Establishments Owned by the Same Individual/Entity
3-1--5	Application Procedure for Opening New Business
3-1--6	Procedures for Renewal of Business Registration
3-1--7	Transfer of Business Registration Certificate
3-1--8	Business Registration Fees
3-1--9	Duties of City Clerk/Treasurer
3-1-10	Inspection
3-1-11	Duties of the Registration Certificate Holder
3-1-12	Lien
3-1-13	Prosecution
3-1-14	Penalty
3-1-15	Severability
3-1-16	Effective Date
3-1-17	Codification
3-1-18	Repealer

Motion by Kampfe, second by Mahan to approve Ordinance No. 878, Title 3-Business Registration Certificate on first reading with the following change: 3-1-18: REPEALER. Chapters 3-1 through 3-5 in **their entirety** are hereby repealed upon the effective date of this ordinance. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Kampfe said the Ordinance was done with the notion of simplifying the process. He said the motion will repeal the old ordinance in its entirety and replace it with the new ordinance. This ordinance will come to the Council again at the next meeting for second reading.

Mahan asked for a change in the last sentence under 3-1-1 “This Certificate is enacted for the purposes of providing an inventory of commercial activities conducted within the city; determining businesses subject to collection and remittance of the resort tax; providing a method of determining compliance with safety regulations imposed on commercial activities within the City; and providing a mechanism whereby owners of commercial activities can be identified and **be** notified by City officials.” It was agreed to make this minor change in the ordinance.

Resolution No. 3288 – Business Registration Fee Structure

RESOLUTION NO. 3288

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RED LODGE SETTING BUSINESS REGISTRATION FEES

Whereas, the City Council of the City of Red Lodge duly adopted Ordinance 878 on October 27, 2009, requiring all businesses located and/or operating inside the city limits to obtain a valid City Business Registration Certificate and pay a business registration fee; and,

Whereas, Ordinance 878 states that the City Council shall by resolution set the fee schedule for business registration, transfer of business registration, appropriate inspections and related matters to be applied to all businesses that the City registers.

Now therefore be it resolved that the City Council of the City of Red Lodge establishes the following rates for services relating to business registration.

Business Registration Fee Schedule

General Registration:	\$50
Beer/Wine Registration:	\$150
Liquor Registration:	\$250
Transfer fee:	\$20

All fees are non-refundable.

These rates to become effective on the effective date of Ordinance 878.

This resolution will be voted on at the same time the second reading is done on Ordinance 878 so they will coincide. The fees have not been raised in this resolution.

Richter asked why transient vendors were not addressed in this resolution. Kampfe said it was discussed but he said there was a ruling given by the City Attorney that stated the City could charge fees that are associated with the enforcement of the license. It would then need to be established that the costs are higher to the City for transient vendors than long-term vendors in order to charge more for the registration. The committee decided that the costs were not higher for a transient vendor than a year round vendor when it came to issuing the registration. Kampfe said there is no rational nexus between the delivery of services and the increase in fees for someone that is in business for a shorter period of time.

Kennicott feels the City should have a temporary vendor registration as the year round vendors pay taxes and maintain a storefront. Temporary vendors come to town and use all the City services but do not pay for them. She is not sure why the City Attorney said the difference could not be made between the two. Priest said the concept of paying taxes is not associated with the registration but rather due to owning a storefront. He does appreciate the point being made but said the fee has to be related to enforcement of the registration.

Enterprise Funds – Budget FY 09-10 Kampfe said there were some very legitimate concerns raised regarding the Resort Tax, Water and Sewer funds spending authority. There is a meeting scheduled to look at the projects that are planned or are in the process of being completed so a report can be brought back to the Council as a whole. The projects listed in the 09-10 budget will be reviewed at this meeting to see if they are still appropriate projects to be done. Kampfe said that step one is to gather the pertinent information and report back to the Council. He said the second step is to take a more critical look at future projects or projects being planned for FY 09-10 to determine if this is the direction the Council wants to go. The flexibility is there to rearrange line items if this is what the Council wants.

Audit Contract The Clerk has stated that the audit contract has expired and she has two proposals that need to be reviewed so an auditor can be chosen for the City. The Mayor has asked the Administration Committee to review the two proposals and come back to the Council with a recommendation.

Emergency and Police Services Kennicott reported that the Committee has written an article in support of the ballot initiative regarding the resort tax authority to be used for emergency services. This will be appearing in the Carbon County News.

LEPC will be meeting October 21 for a table top exercise at the Fire Hall from 9:00 a.m to noon. This table top exercise is on the H1N1 flu plan. If anyone is interested they are encouraged to attend.

Mayor Scanlin said she would like the committee to consider speed control on residential streets. There have been a number of suggestions proposed regarding this issue but the Mayor said we need a realistic view of what can be accomplished and what is effective. She would like the committee to bring some recommendations to the Council. It was discussed having a joint proposal from both Emergency Services and Public Works.

The Mayor said the other item for Emergency Services is the snow plowing policy. Concerns from Ambulance and Police regarding access to the streets during snow events will be discussed. The operations of snowplowing will be discussed. Mayor Scanlin said the policy is not being followed and she would like a reason why so she will be able to report to the citizens when they ask questions.

League Conference Kennicott said she sat in on a session at the League of Cities and Towns Conference that was held by a panel of representatives from the four City's that recently had fires. These communities were Bozeman, Miles City, White Hall and Great Falls. They felt it was important for communities to know NIMS and the Incident Command System. Another comment was that it is important to know where gas valves are located, especially in the downtown area. It was also stated that having generators is very important. It was commented that it would be very important for the Fire Department to know where the gas valves and turnoffs are located and to work with NorthWestern Energy.

Sanderson told the Council that the 2005 Harley Davidson motorcycle that was confiscated by the Police Department was auctioned off and sold for \$6900. The Harley was confiscated a couple of years ago on a multiple DUI offense.

Land Use and Planning – Draft Subdivision Regulations – Public Hearing Mayor Scanlin opened the public hearing on the Subdivision Regulations. Members of the Planning Board said a lot of work was put into this document. No one from the public spoke during the public hearing. Mayor Scanlin closed the public hearing.

Sanderson said that the draft regulations dated 8/26/09 will be amended prior to first reading. He said the legislature passed HB 486 which has a number of items that need to be considered for inclusion in the regulations or are mandatory to be included. The draft given to the Council for first reading will include the mandatory requirement changes and will highlight the optional portions that are different from the draft they currently have.

Sanderson said he encourages the Council to review the standards which would be weeds, rights-of-way, roads, lots and lot types. These standards are unique to subdivisions and need to be reviewed.

Sanderson said he will make the mandatory changes and make sure the Planning Board is aware of the changes. If there are any concerns by the Planning Board then the process needs to be halted as this document is large and very important. Mayor Scanlin wants to make sure the Planning Board is aware of any changes made to the document as they have put a lot of effort and time into it. Dan Gainer, Chairman of the Planning Board, told the Council he is fine with the Council making the mandatory changes and hopes they will review with due diligence.

Land Sale – Heritage Propane Site Motion by Mahan, second by Labrie to approve the sale of the subject property to Heritage Holdings subject to the following conditions:

1. That Heritage Holdings shall submit a minor subdivision application **within ninety (90) days** for review and approval by the City Council. Said application shall be consistent with the requirements of Montana Law and the Red Lodge Subdivision Regulations.
2. That Heritage Holdings shall pay any and all costs associated with the subdivision of the property.
3. That Heritage Holdings shall place in an escrow account with a Title Company the sum of One Hundred Ninety Thousand Four Hundred Dollars (\$190,400) within ten days of this approval.

4. That Heritage Holdings comply with the terms and conditions imposed in the offering for sale of City owned land.
5. That the City Council place the funds from the sale of the subject property into the 'Capital Projects cash account' with the limitation that the funds may only be used to pay the expenses associated with the debt on the Cooper Lots.

On roll call vote those in favor: Aldermen Kampfe, Mahan and Labrie. Those opposed: Aldermen Richter, Kennicott and Priest. Mayor Scanlin broke the tie vote by voting in favor of the motion. Motion carried.

Mahan said when the subdivision application comes to the Council that is when the Council places any conditions they have regarding such things as how the property is used, landscaping and such. Kennicott asked if there was a time limit on submitting the minor subdivision application. Sanderson said the City has \$38,000 in escrow funds and if the developer languishes the City gets to keep the money and property. Sanderson said Heritage has already obtained the services of a licensed, professional surveyor to activate the process when closure comes on the sale. A friendly addition was made to the motion on condition #1 giving 90 days to submit a minor subdivision application.

Kennicott is concerned that the Council has not had a discussion of the optimal use of this property. She is hesitant to sell the property just to have the funds for the expenses associated with the debt on the Cooper Lots. She also asked if the City has all the documents necessary for selling property as contained in the policies the City has. She was told the City has received all the necessary documents. Priest is concerned that the City is selling at the bottom of the market due to an outside urgency.

Aspen Townhomes – Acceptance of Improvements – Start 1-Year Warranty The Council conditionally approved the Aspen Townhomes Class III PUD in April of 2008. In October of 2008, the owner and developer of Aspen Townhomes entered into an Improvements Agreement with the City to guarantee the remaining required improvements and secured a \$3000 Letter of Credit.

All components specified in the Improvements Agreement, a storm water detention swale and landscaping, have been installed in the Aspen Townhomes Planned Unit Development. The Public Works Director inspected the improvements guaranteed under the Improvements Agreement in September of 2009. An engineer has certified that the storm water detention swale is installed per the approved design. The developer has provided reproducible as-built drawings of the required improvements.

All required improvements have been inspected by the PWD. Improvements comply with the 2006 Red Lodge Development Code and the terms and conditions of the Improvements Agreement. The recommendation from staff will be to move forward with the improvements and start the one year warranty. Sanderson encouraged the Council to review all supplied documents as this will be an action item at the next Council meeting.

Public Works Priest said the staff at Beartooth Industries are concerned with the conditions at the recycling center building. There is an ongoing problem with the heat in the summer and cold in the winter. The Public Works Committee will review this problem and come back to the Council with some recommendations.

CITIZEN REPORT Andy Andersen said that streets are an important issue regarding speed and traffic. He was told there will be an Emergency Services Committee meeting held October 27th at 10:15 a.m. at City Hall. He was told he could also discuss the matter with his Council representatives.

OLD BUSINESS None

NEW BUSINESS Richter told the Carbon County News representative who was in attendance that the Progress edition in the newspaper was well done and thanked them for doing it.

CORRESPONDENCE None

MISCELLANEOUS Sanderson told the Council that the notice of zoning violation has been given to Mountain Springs Villa. Mountain Springs Villa has acknowledged receipt and they still have time to submit a proposal to the City.

Meeting adjourned at 8:50 p.m.

Mayor

ATTEST:

City Clerk