

October 28, 2008

The Red Lodge City Council met in regular session on October 28, 2008 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 Mahan, Lockman, Labrie, Kennicott and Priest. Absent: Alderman Kampfe.

**MINUTES OF OCTOBER 14** Motion by Mahan, second by Lockman to approve the minutes of October 14 as presented. On roll call vote those in favor: Aldermen Mahan, Lockman, Labrie and Priest. Those abstained: Alderman Kennicott, not in attendance at meeting. Motion carried.

**SPECIAL COMMITTEES** None

**STANDING COMMITTEES – Administration** None

**Emergency and Police Services – Ordinance No. 873 – Fire Codes – Second Reading** At the last meeting when the Council heard the ordinance on first reading, Mahan had a concern regarding the clarification on what is needed in park areas where there are grills. The ordinance speaks to fire extinguishers being necessary when outdoor cooking facilities are being used. Chief Kuntz included the following to this section of the ordinance, “Barbeque grills in the City parks that are permanently mounted and used for private recreational use shall be exempted.” It was suggested that this be inserted in section 15.06.014. With this change being made to the ordinance it will be presented as first reading once again.

Motion by Lockman, second by Mahan to approve Ordinance No. 873-Fire Codes on first reading to include “Barbeque grills in the City parks that are permanently mounted and used for private recreational use shall be exempted.”

Kennicott asked if the fees generated by a particular department are always earmarked for the department use only. She was told that this does not always occur. Sanderson said some fees are statutorily set such as the building department fees.

Kennicott asked about section 15.06.065 which states that each firefighter of the city is authorized to enforce this code and remove any unlawful or dangerous condition that exists which may create, cause, or have potential to cause fires or impede fire department public safety service. The firefighters are authorized to issue citations to violators. She asked if this should perhaps have more clarification like having a certain rank that would be able to issue citations. Steve Haman, volunteer firefighter, said that he felt that businesses would be inspected by staff. He said an example would be a firefighter enforcing a no burn situation if they noticed it being ignored. Kennicott said the issuing of the citation still needs to be spelled out. This will be given back to Chief Kuntz so this question can be clarified as to who is authorized to issue tickets.

Motion by Lockman, second by Labrie to table Ordinance No. 873 on first reading pending changes that have been discussed. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**Resolution No. 3268 – Fee Structure for Fire Department**

**RESOLUTION NO. 3268**

**A RESOLUTION SETTING THE FIRE DEPARTMENT FEES SPECIFIED IN CHAPTER 15.**

**Whereas**, under Section 7-34-103, M.C.A., the City Council of the City of Red Lodge, Montana hereby establishes the following:

That the City of Red Lodge, Montana will charge the following rates for service supplied by the Fire Department of the City of Red Lodge, Montana. These rates to become effective November 28, 2008.

Fire Prevention and Safety  
Fee Schedule

Standard Hourly fee	\$100.00
Inspections	
Minimum	\$ 35.00
General	\$ 50.00
Assembly / Hazard	\$ 75.00
Plan Review Fees	\$100.00 / Lot or Unit
Open Burning Permits	\$ 25.00
Addressing	\$100.00 / lot

Kennicott commented that she felt the title of this resolution should state where chapter 15 is located. It was decided to change the title to read “A RESOLUTION SETTING THE FIRE DEPARTMENT FEES SPECIFIED IN CHAPTER 15 OF THE FIRE PREVENTION AND SAFETY CODES.”

Motion by Lockman, second by Labrie to approve Resolution No. 3268-Fee Structure for Fire Department. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**Land Use and Planning – Diamond C Links – Warranty Close Out** All required improvements have been installed in the Diamond C Links Subdivision and the improvements have been under warranty. The developer is requesting the acceptance of Schedule II-Phase I and II Streets and a close out of the warranty of improvements for Diamond C Links Subdivision.

The City is currently the beneficiary on a \$105,563.28 Letter of Credit as a warranty of the Schedule II-Phase I and II Streets. Orval Boyer, PWD, has inspected the improvements and is recommending acceptance by the City. Noting the outstanding contract with Wright Company, it is recommended that Council accept the improvements into the municipal infrastructure. In accepting the Schedule II-Phase I and II Streets, the City shall also authorize a release of the Letter of Credit.

Re-seeding and correcting an eroded area were outstanding components noted during the final inspection of the improvements per Engineering Inc.’s letter dated October 3, 2008. Diamond C Links has contracted Wright Company to perform noxious weed control, re-seeding and fertilizing of the detention ponds. The schedule of work is as follows: \* Initial noxious weed control spray - completed on September 27, 2008. \*Re-seeding of detention ponds – delayed per snow; will be completed when ground dries off. \*2<sup>nd</sup> application of noxious weed control spray - +/-June 30, 2009 or when grass is in two-leaf stage. \* Fertilize - +/- July 15, 2009.

Motion by Mahan, second by Labrie to adopt memo ‘Acceptance of Schedule II-Phase I and II Streets; Close out Warranty of Improvements for Diamond C Links Subdivision’ dated 10/23/2008 and attachments as findings of fact. I move the acceptance of Schedule II-Phase I and II Streets of the Diamond C Links Subdivision, the release of the available balance of the Letter of Credit, and that the Public Works Director issue a Certificate of Compliance on Schedule II-Phase I and II Streets. Also noting that there are four components that because of weather related problems were not able to be completed but are scheduled for completion. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Kennicott expressed her concern that the four components be completed and the City ensures compliance at the appropriate time. She asked if there was a checklist for items like this. The Mayor said there was and that Council member could also follow up.

**Heritage Holdings – Propane Lease Extension** On July 9, 2008, Heritage Holdings requested a 5-year renewal of their lease. The extension was denied by the City. Upon receipt of this denial Heritage Holdings has requested that the City consider a lease term that would expire early next summer.

The lease contained a 60-day grace period to allow for the lessee to remove their improvements, restore the property to original condition and provide for inspection and acceptance by the City. This grace period will expire on November 13, 2008.

Currently Heritage Holdings has a 15,000-gallon storage tank that is located within 50 feet of a property boundary. The 50-foot setback is required by the 2008 NFPA 58 Table 6.31. As such, the City would have to grant an easement to meet the 50-foot setback or Heritage Holdings would be required to close their operations while the tank(s) are relocated. The City does not currently have a plan for use of the property and has not received any request for new uses on the property. The current rents charged by the City are substantially below market rate. An appropriate rate for the subject property will range between \$400 and \$600 per month.

Sanderson said the Council can reaffirm the previous position and allow the lease and use of the property to terminate on November 13, 2008 or impose additional terms and higher rents on a new short-term lease. These terms could address the ability of Heritage Holdings to continue to operate in the City as well as limit or prevent future trespass and illegal use of City owned lands in the area. Heritage Holdings is willing to do weed control during the extension of the lease time if the Council agrees. The Planning Board recommends the Council continues with a short-term lease at a higher rent amount.

Eric Walker said that owner Wayne Canary has the concern that the area would not be cleaned up of storage sheds. He is concerned with people parking without permission. It was asked if the area could be roped off or noticed regarding parking. Mr. Canary was told the City would work with the lessee to keep squatters off the land that is being leased.

Motion by Mahan, second by Labrie to adopt Memo Lease Renewal Request with Heritage Holdings, Inc., dated 10/24/2008 and attachments as findings of fact. Further, I move to approve a new lease for Heritage Holdings, Inc. subject to the following conditions:

1. That the lease term shall be from September 12, 2008 to June 13, 2009 only, with a monthly rent of \$500 per month. Credit shall be applied for the over payment for calendar year 2008. ( $\$4500 - \$504.67 = \$3995.33$ )
2. That the lease shall be for the entire 1.4 acres owned by the City.
3. That the lessee shall not sublet any portion of the subject property.
4. That the lessee shall at a minimum of once during the term of the lease spray all 1.4 acres for noxious weeds in the spring of 2009.
5. That the lessee shall prepare and execute a new lease document that incorporates all of these conditions for acceptance by the City by November 12, 2008.
6. That the terms of the original lease shall remain in full force and effect except as modified by these conditions.
7. The lessee shall be allowed to secure the property from squatters.

On roll call vote all Aldermen present voted “Aye.” Motion carried.

The \$500 per month lease amount is based on a market analysis that was done by Cheri McCulley.

**Christmas Stroll Street Closure** The Red Lodge Main Street of FLAEDC is requesting the closure of Broadway between 8<sup>th</sup> Street and 13<sup>th</sup> Street on December 5<sup>th</sup> and December 6<sup>th</sup> for the annual Christmas Stroll. The time request for the closure is 5:00 p.m. – 9:00 p.m. It was stated that traditionally the City has waived insurance where this is being held essentially on the MDT right-of-way. The State has given permission for the closure on these two nights. The surrounding property owners have not been notified of the closure request and Beth Hutchinson said this would be taken care of. The check for \$175 for the clean up deposit will also be given to the City before the event is held. Kennicott suggested updating the ‘Application for Use of City Owned Property’ according to the new City Ordinance No. 871 which affects not for profit exempt status, insurance amount, fee for cleanup, etc.

Motion by Mahan, second by Lockman to approve the Christmas Stroll request to close Broadway from 8<sup>th</sup> Street to 13<sup>th</sup> Street from 5:00 p.m. to 9:00 p.m. on December 5<sup>th</sup> and 6<sup>th</sup>. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**Request to Drill Well at Airport** Kenneth Lake has made a request to the City to drill a well at the southwest corner of Hangar Site 12 Red Lodge Airport. The well will be 15 feet south and 4 feet east of the leased property line of Hangar Site 12. Hangar 9 septic tank and drain field is the closest sewage system and is located 175 feet down slope from the proposed well. Other systems are located at hangars numbered 1, 6, 7, 8, 10 and 11. All are in excess of 200 feet from the well. The primary purpose for the well is quick response fire protection for the new hangar, aircraft, tools, etc. within the hangar. A secondary purpose for the well is washing of aircraft, tractor/mower and watering of newly landscaped and grass seeded areas. The well water will not be used as a potable water source, sewage disposal or hygienic cleanup. There will not be any water, plumbing or fixtures inside the hangar.

Sanderson said the applicant will need to demonstrate that he complies with the Standards of the Rules and Regulations Governing Water and Wastewater Services for the City per Ordinance No. 835 and he also stated there is currently a moratorium of new septic tanks at the Airport. The conditions that need to be considered as stated in the ordinance for a well to be used for irrigation purposes are: 1) the property is not presently served by the City water system; 2) the City water service is more than 300 feet from the nearest property line of the property owner requesting the well or legal access is denied across any property between the City water system and the property belonging to the owner requesting the well along reasonable service line routes; 3) the property owner agrees in writing to connect to the City water system within 60 days when the service is extended to within 300 feet of his/her nearest property line or when sufficient legal access to construct a service line is granted across property between the City water system and the property belonging to the owner requesting the well; 4) written permission has been obtained from the Public Works Director. Sanderson recommends forwarding the letter of request to the Public Works Committee for analysis of the four conditions and the request. The PWD needs to review the request and submit to the committee his written recommendation and if he is agreeable to give his written permission.

Mayor Scanlin said she has concerns with the well being used for fire suppression and feels that Chief Kuntz should also review this request. She is also concerned with the washing of planes or vehicles and what may be put into the ground such as gasoline. She would like more details on how this waste would be treated or caught.

Mahan said she was also concerned with planes coming from other areas and the possibility of bringing in noxious weed seeds that would then be washed off and add to a problem already here. Kennicott also questioned the need for a new well and asked if a City line could be used instead. She has great concerns with all the wells that are being drilled and mentioned that the Ground Water Information Center of the Montana Bureau of Mines and Geology was checking wells in the area, i.e., at Remington Ranch. She

thought there should be more research before approving wells and suggested that the City's Water Attorney in Bozeman be consulted before this one could be acted upon.

**Public Works – Update 2007 Waterline Rehabilitation Project** Sanderson said the notice of substantial completion has been received from Century Company as well as their final reconciling change order. This means that Century Company has completed their third of the project. They will be back next summer to complete any of the punch list items. Time is nearing for the walk thru with USDA on the tank that COP Construction has built. Williams has cut in and connected the 16-inch delivery line to the PRV at the County Shop. They have tied into the tank on waterworks hill. The interim financing will be closed out with First Interstate Bank the middle of December. USDA will pay this financing off with the bank and the City will then have the loan with USDA/RD.

**Hospital Waterline Dedication** The hospital requested to postpone action on this topic pending further review. They said they would re-address this request with the City at a later time.

Motion by Lockman, second by Mahan to table the hospital waterline dedication until the hospital is able to submit a new request. On roll call vote all Aldermen present voted "Aye." Motion carried.

Sanderson said that Ordinance No. 835 spells out what the City can and cannot do as it pertains to this water main extension. He believes the hospital will submit a revised request in the future after they have reviewed the ordinance.

Kennicott asked if this is the first request and if not who has made similar requests and if they were approved. Sanderson said he would research this for her. She asked if a cost analysis could be run on this to see if this would be beneficial to the City.

**Change Order #3 Schedule II** This change order is to pay reconciling items checked and verified on actual quantities under bid items in original contract. Sanderson said the costs bid out were too low.

Motion by Priest, second by Mahan to approve Change Order #3 Schedule II in the amount of \$144,504.85. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Certificate of Substantial Completion Schedule II** All work has been completed and inspected. All punch lists have been completed and the one-year warranty period will commence. All pavement areas completed during construction of the zones will be assessed for settlement and repaired in the spring of 2009 if they occur. The contractor, owner and engineer will attend an on-site meeting to assess pavement areas.

Motion by Priest, second by Lockman to approve the definitive certificate of substantial completion for Century Company for Zones C, D-1, D-2, D-3 and E. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Cooper Lots** Mayor Scanlin said the City crew is digging at the Cooper Street lots for the water and sewer lines. Priest asked if hours and costs were being recorded on work done by the City like this so the public can be told what it takes to help with projects that are done. This would be a benefit when applying for grants.

**CITIZEN REPORT** Laura Getz, Affordable Housing Committee, said that four of the Cooper lots are still available. She said there are families being worked with and applications are out but have not come back in yet. Getz said at this point in order for the lots to sell they have to income qualify on the Board of Housing income guidelines. At the present time the lots cannot be listed on the open market. What the

committee can do is work with a realtor to get some back up applicants in place so if worse case becomes reality and the City has to write a check for the remaining lots, there would be contingent buyers in place. Lockman asked what the estimated cost was to purchase one of these lots and put a house on it. Getz said the lot will not exceed \$50,000 and the construction company being used is doing the work for \$100 per square foot.

This program has not been working very well for whatever reasons. The contingency is to put the lots back on the market when possible with no restrictions.

Beth Hutchinson said she gathered information on the Resort Tax last fall so she could take it to an unincorporated community on the west side of the state. She said the community has decided they have no objections to the concept of the Resort Tax based on our information. She said the community does not trust the people who would be administering the funds so in all likelihood the Resort Tax will be voted down. Hutchinson said this compliments the Red Lodge City government in that the town decided to take the risk on the Resort Tax and there are no problems with the how the funds are being dealt with.

**OLD BUSINESS** Kennicott brought up the issue of the dumping on the lot across from Willis Coffman at Country Club Estates. She asked if the City has responded to Mr. Coffman. She asked if anything is going to be done. The Mayor said she has not yet received anything officially from the City Attorney. The Mayor said this is on private land and is between private parties and is a private issue. The Mayor said she has spoken with Mrs. Coffman and relayed this information. The Mayor said the official position at this point is that it is not a public issue unless there is debris blowing on public land. Mayor Scanlin said she would visit with Sam Painter to see if he had made a legal determination of what the City's role is in this situation.

**NEW BUSINESS – Senior Citizen Center Expansion Project** Beth Shumate, grant writer, has come to the City to give them information regarding the Senior Citizen Center proposed expansion. The Senior Center has hired Shumate to write a CDBG grant application for this expansion to the existing facility. The project will cost \$279,200 for the expansion and a parking barn for the center's bus. Shumate said that CDBG typically funds public facility projects so the center expansion will qualify. The CDBG grant application is for \$205,260 to help with this project. This CDBG grant application needs to be sponsored by a local government entity. This would mean the City or possibly Carbon County. The match for this grant would be 25%. Shumate said the match could potentially come from both sources, the City and the Senior Center. Shumate was asked to speak to the County as a potential partner in this project.

Mayor Scanlin said she would like to have this request be summarized. She would also like to have identified more closely what the action of the City would be to endorse the pursuing of this grant and what the obligation would be if the grant was obtained.

Motion by Lockman, second by Priest to table the discussion of the Senior Citizen Expansion Project and defer further discussion to the Administration Committee and the Mayor. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Youth Soccer Field** Steve Haman spoke to the Council regarding the Red Lodge Youth Soccer Association. He said the Association has been active and organized since 1996. They are a 501©3 non-profit organization. An active Board of Directors governs them with officers and directors.

The program offers recreation soccer in the fall for all ages and skill levels. They have a traveling competitive soccer team in the spring. There were two soccer camps offered in the summer of 2008 and there is training offered to the coaches each year. Haman said that of the total enrollment for K-8 grade

students in the Red Lodge and Luther schools over 50% of them participated this year in the soccer leagues.

The Association's primary objective is to seek land to construct a recreational facility including space for a minimum of two full size (60 yards x 100 yards) soccer specific fields. These fields would meet the Montana Youth Soccer Association's requirements of providing a safe playing field in order to host games and tournaments. The goal is to provide non-hazardous playing areas for the nearly 160 children who are members in this league. It is felt that these field areas could also be used by other sports organizations and athletic teams while the soccer club is not utilizing the space.

The Association is not looking to the City to be the sole financial contributor to this program. Haman said they know they need to take the next step forward towards meeting their goals. They have already spoken to the Parks Board but will be going back to them since they have now approached the City. This will eventually come to the Land Use and Planning Committee when a more formal request is made. Mayor Scanlin said she would like to see the school be involved in all of this discussion also.

**CORRESPONDENCE** None

**MISCELLANEOUS** Mayor Scanlin thanked Mike Schoenike for the work he has done indexing City resolutions. This will then be put into some kind of electronic form for use by the City.

Meeting adjourned at 9:30 p.m.

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Mayor

ATTEST:

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City Clerk

Minutes corrected at the November 10, 2008 meeting.