

October 9, 2007

The Red Lodge City Council met in regular session on October 9, 2007 at 7:00 p.m. The meeting was called to order by Mayor Roat followed by the Pledge of Allegiance to the Flag.

ROLL CALL OF OFFICERS Present: Mayor Roat, Aldermen Kampfe, Mahan, Lockman, Stauffer, Scanlin and Reynolds. Absent: None.

MINUTES OF SEPTEMBER 25 Motion by Mahan, second by Reynolds to approve the minutes of September 25 as corrected. On roll call vote those in favor: Aldermen Mahan, Lockman, Scanlin and Reynolds. Those that abstained: Aldermen Kampfe and Stauffer. Both these Aldermen were absent from the September 25 meeting. Motion carried.

Tammy Holt name spelling correction was made to be Tammy Hoth.

CLAIMS AGAINST THE CITY Scanlin said the claims totaled \$122,503.91. The committee recommended payment of all submitted claims.

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 that some of the larger claims this month were Elk River Law Office, \$3200, Joseph Eve & Co. CPA's, \$5200, funds spent from the EDA Grant \$20700 which was for rent on office space at the Chamber and wages for the personnel with the Main Street Project and Kent Young, \$3300, in addition to the \$2500 retainer.

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

SPECIAL COMMITTEE None

STANDING COMMITTEE – Administration None

Police and Emergency Services Lockman said the committee met with Chief Pringle and Sergeant Cope regarding the Iron Horse Rodeo. They talked about several things the City might be able to do to help with this weekend like educating the public. They discussed the camping that is done on City property and the fees that are being charged to do this. Lockman said it was a good start on the conversation before the event comes around again in July. Kampfe said it will be a Council decision as to the direction the City takes in regard to the event and safety of the citizens of Red Lodge.

Land Use and Planning – FY 08 Work Plan for Planning Office Sanderson presented the Council with priorities set by the Land Use Committee dealing with planning topics. These identified tasks are in addition to ongoing office functions such as enforcement, review of conditional uses, design review, addressing and assisting other departments in the execution of their programs and other projects.

1. Annexation of as many parcels/subdivisions into the City of Red Lodge that have signed waivers of protest as possible.
2. Annexation of all parcels/subdivisions that become wholly surrounded by the City of Red Lodge as a result of actions taken in #1 above.

3. Produce a Request for Proposals (RFP) for the creation of a Capital Improvements Plan. Select and work with a contractor to prepare a CIP for adoption by the City Council on or before June 30, 2008.
4. The City is desirous of the Department working with the Carbon County Commissioners and Planner with the goal of creating an extra territorial jurisdiction around the City that will be jointly administered by the City and County.
5. Have the Planning Board start the process to update the City Growth Policy. Updates to the City Council will occur quarterly commencing with the first meeting in March 2008. The goal would be to have an updated Growth Policy adopted by January 2009.
6. Prepare and submit for public hearing by the Planning Board and City Council updates to or a new Red Lodge Development Code that will implement the Growth Policy discussed in #5. The goal is to have the new Subdivision Regulations adopted by April 2009.
7. Prepare and submit for public hearing by the Planning Board and City Council updates to or a new version of the Red Lodge Subdivision Regulations that will implement the Growth Policy discussed in #6. The goal is to have the new Subdivision Regulations adopted by April 2009.
8. Research and draft an RFP for affordable housing development near the new High School site and Cabins on Cooper.
9. Work on development of the City owned property at the Airport.

Sanderson said that item #5 would be the driving force behind most of the other items.

Motion by Reynolds, second by Mahan to adopt the work plan for the Red Lodge Planning Office. On roll call vote all Aldermen present voted "Aye." Motion carried.

Mahan said the Planning Board has also reviewed this plan and they are in agreement with all the items listed. Updating the Growth Policy is an important part of this work plan and will be done as soon as time allows. Sanderson said all nine bullets will be worked on during the upcoming year but the committee felt that annexation is the first thing that needs to be accomplished to be fiscally responsible.

Stauffer asked where the existing subdivision regulations for the City were. Sanderson said they are housed roughly within 28 pages of the Development Code. Scanlin would like to see item #8 broadened to continue to give support to affordable housing projects in progress such as the Cooper Street lots and the Mountain Springs Villa. Sanderson said that affordable housing would be a part of the Growth Policy.

Final Plat Phase 1A & 1B – The Spires at Red Lodge Motion by Mahan, second by Reynolds to recommend approval of staff report FP-07-02 as Findings of Fact and that the Council approves the Final Plat for Phase 1A and 1B of the Spires at Red Lodge. On roll call vote all Aldermen present voted "Aye." Motion carried.

Stauffer asked if the \$150,000 contribution that was to be made with the final plat approval was received. He was told that the City has this contribution.

Bond Reduction – The Spires at Red Lodge Mayor Roat said a bond has been posted to assure that work will be done on the project as scheduled. When the work is done the bond can be reduced by the amount of work that has been completed. The Spires is asking for a bond reduction on the work that has been completed.

Motion by Reynolds, second by Mahan to release bonding in the amount of \$910,428.91. On roll call vote all Aldermen present voted "Aye." Motion carried.

Class III Conditional Use Permit – Bank of Red Lodge The Bank of Red Lodge is proposing a 5,241 square foot bank facility in the Central Business District. The proposed bank will include drive through service, a conditional use in the Center Business District. The project includes the construction of all on-site infrastructure to service the bank facility. The application materials indicate sidewalk and landscaped areas that may encroach on the public right of way. Additionally, the site plan indicates a divider between the Hawkeye Center and the proposed bank facility that may encroach on public right of way.

Sanderson told the Council the issue that is being discussed with this Class III Conditional Use Permit is whether or not it is appropriate for a drive thru facility at this location under the Development Code.

Motion by Mahan, second by Reynolds that the Class II Conditional Use application for a new Bank of Red lodge facility in the Central Business Zone does meet the criteria and requirements stated in the Red Lodge Development Code; and does appear to be in compliance with the Red Lodge Growth Policy. I therefore move this application be approved with the following conditions. 1.) A safety barrier between Lion’s Park and the Bank property be negotiated with the Parks Board, Lion’s Club and the Bank. 2.) Striping of the asphalt for pedestrian walkway on the south side of the Bank property be done. 3.) A sign at the south exit of the bank property indicate “right turn only”. 4.) Demonstration through a title or survey document that all surface infrastructure improvements to the site have been appropriately placed within the bank’s property or the right of way for Oakes Avenue in accordance with the site plan submitted by the applicant. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Mahan told the Council there were no negative comments on the drive thru window made at the Planning Board meeting.

Scanlin said the impacts she finds with the proposed drive thru is traffic flow, pollution, pedestrian crossing and that noise level and lighting remain on the lot. She feels these concerns have been addressed and she has no problem with the drive thru.

The Bank was asked if public parking would be allowed on their lot for the public restrooms. The Bank said they would be signing their parking lot for 8:00 am – 5:00 pm Monday – Friday. Other than these times they would be cooperative to having public parking for the restroom use.

Cooper Lots – City Contributions Motion by Scanlin, second by Mahan to approve the deferred payments on the Cooper lots. On roll call vote all Aldermen present voted “Nay.” Motion failed.

The City Attorney said the City can waive the \$4000 for the extension of water and sewer to the lots, can waive the \$125 payment for the water meter, can waive the \$150 water tap fee and can waive the \$1200 building inspection/permit fee. Painter said to waive, reduce or defer the impact fees the Council would have had to adopt inside the ordinance findings that empower the City to do so. The impact fees can be deferred to a later specific date but this cannot be done without collecting interest. Impact fees must be paid at some date specific time. The City has never done any of this.

Discussion was held by the Council giving deferments and having the property remain affordable in the future. There is a concern with giving deferments and the property selling and the owner making a profit and losing the affordable housing in the process. Julie Jones said the deed restrictions are being worked on to make the lots remain affordable for a longer period of time rather than just ten years.

Sanderson asked if the City waived \$5475 (\$4000 for the extension of water and sewer to the lots, \$125 water meter, \$150 water tap fee and \$1200 building inspection/permit fee) per lot would the affordable housing lots then be made saleable for the people applying for them. Would the goals for these lots then

be met. The Council was told if this was done the Affordable Housing Committee could make these lots work.

Motion by Scanlin to defer the payment of everything but the impact fees as suggested and defer the impact fees no longer than point of sale of the first generation. No second was made to this motion.

Sanderson recommended waiving the \$5475 of fees and to collect the impact fees at a date specific time, which he prefers to be at the time of obtaining a building permit. He feels the impact fees need to be date specific.

Motion by Reynolds, second by Stauffer to waive the fees in total of \$5475, which includes \$2000 extension of water to lot, \$2000 extension of sewer to lot, \$125 payment for water meter, \$150 water tap fee and \$1200 building inspection/permit fees with impact fees to be paid at the time the building permit is drawn. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Resolution No. 3247 – Mountain Springs Villa – CDBG Grant Match & Documents for Signature
RESOLUTION NO. 3247**

WHEREAS, the City of Red Lodge, on behalf of the Montana HomeOwnership Network, is applying to the Montana Department of Commerce for Community Development Block Grant (CDBG) funds to reconfigure and/or update the infrastructure at the Mountain Springs Villa property and to provide down-payment and closing cost assistance to those residents who qualify;

WHEREAS, the City of Red Lodge has conducted one or more public hearings in conformance with CDBG requirements to obtain the views of citizens for community development and housing needs, and on the proposed activities;

WHEREAS, the City of Red Lodge has the legal jurisdiction and authority to construct, finance, operate and maintain the public utilities and any program income generated;

That the City of Red Lodge agrees to conform with the regulations, statutes, terms and conditions described in the CDBG Certifications for Application, and

That Brian Roat, City of Red Lodge Mayor, is authorized to submit this application to the Montana Department of Commerce, on behalf of the City of Red Lodge, to act on behalf of the City of Red Lodge and to provide such additional information as may be required.

Motion by Scanlin, second by Mahan to approve the resolution authorizing the City to enter into a CDBG grant application. On roll call vote all Aldermen present voted "Aye." Motion carried.

The City will be acting as the funnel for these funds to be used for the infrastructure to be installed in the Mountain Springs Villa. This is what the City is doing by submitting this application to CDBG. A modest amount of up to \$15,000 is being asked for as a match to the grant with either in-kind work or a cash contribution.

It was requested from the City to waive the impact fees. Sanderson said there are currently 30 units in existence on the site already. Under the City ordinance, the replacement of structures is specifically contemplated as an exemption to the assessment of additional impact fees. Sanderson said he does not know how this will work as a match as far as CDBG is concerned but it is a saving of approximately \$196,800. Sanderson said he would be in agreement to waive the \$1800 for the Class III Conditional Use fees.

Motion by Scanlin, second by Reynolds to approve the CDBG grant match which can be in-kind or cash of \$5000 to \$15,000. On roll call vote all Aldermen present voted "Aye." Motion carried.

Scanlin asked that the waiver of the conditional use fees be on the agenda for the next meeting.

Bond Reduction – Diamond “C” Links Sanderson said the difference in this request is that Corey Cabral has written a check to NorthWestern Energy to install gas and power services to his subdivision. He is asking to have the Council approve the payment and allow him to be released from his obligations that he would install all the public utilities and roadways in his subdivision. Cabral asks for this release with the condition that he provide a copy of the contract with NorthWestern Energy, a copy of the executed construction agreement and a receipt from NorthWestern Energy for payment in full. He is asking that the City would then consider this to be a guarantee and lift the restriction on the transfers and conveyances.

Motion by Mahan, second by Reynolds to consider a bond reduction as requested by Diamond “C” Links in the amount that is to be paid to NorthWestern Energy upon presentation of documentation to this effect. On roll call vote those in favor: Aldermen Mahan, Lockman, Stauffer and Reynolds. Those opposed: Aldermen Kampfe and Scanlin. Motion carried.

Discussion was held by the Council on this request. Scanlin said she is uncomfortable giving releases before work is actually done. Cabral said he is not asking the City to do anything they do not have authority to do. He is asking this to be done because at this point in time they are finished with the project with people being ready to start with their development plans.

Mayor Roat asked if it was possible for Cabral to get a performance bond from NorthWestern Energy. Cabral was told this is not possible. Mahan said her motion was to consider Mr. Cabral's request and when he comes back to the Council with the documentation the Council would make a final decision on this request.

Stated in the SIA between Diamond “C” Links and the City the developer is required to install the private utilities as a condition to lift the restriction on the transfer and conveyances or it says a bond can be posted or a letter of credit provided for this amount to the City. Mr. Cabral is asking that by his providing proof of payment in full and a contract with NorthWestern Energy the City would consider this to be the guaranteed bond.

Lease of 2-3 Acres at Airport – Beartooth Kawasaki Beartooth Kawasaki is requesting the City Council consider leasing between two and three acres at the airport for use as commercial property. The site would be a typical sales/service outlet for the applicant. The proposed use is consistent with the zoning on the property.

Kampfe said he feels there is a need for a comprehensive plan for the entire area rather than do things piece meal at the airport. He does not think the City is prepared at the present time to do things on an individual basis without more information. Mayor Roat said the only solution for this is to do an RFP for development of this property. Others on the Council agree that having a comprehensive plan of the area would be a good idea before anything is done at the airport.

Scanlin asked if any site at the airport had infrastructure. She was told no. Sanderson said if a lease were done the renter would be responsible for bringing water and sewer to the site from wherever the main was located.

Public Works – Pre-Paid Sewer Connections – Brewery Hill In 1999 a utility agreement was signed with Bearcreek Limited Liability Partnership. In this agreement it states that the owner is prepaying the City \$50,000 toward utility (sewer and water) connection and/or sewer impact fees that may become due

under Red Lodge Ordinance No. 829 for connections appurtenant to the subject property, which shall be calculated in accordance with the lower of the amount of such fees under Ordinance No. 829 as adopted August 26, 1997, or the amount of such fees at the time. Any such fees, which may exceed \$50,000, will be paid by owner. If the total of such fees for connections requested by owner is less than \$50,000, the City will owe nothing back to the owner.

Sanderson said the question to the Council is what is the rate structure that will be applied. Is it the rate structure under Ordinance No. 829 or the rates at the present time? The current 2007 fees are substantially higher. The agreement stated the fees used would be the lower amount. Sanderson said he is asking the Council to affirm that the \$50,000 paid be amortized at the rates existing August 26, 1997 per the agreement for sewer only.

Motion by Reynolds, second by Lockman to reaffirm the fees to be charged under Ordinance No. 829 that was adopted August 26, 1997. On roll call vote all Aldermen present voted "Aye." Motion carried.

Water Rights Contractor – Hydro Solutions Mahan told the Council that Boyer asked his committee for time to study this subject a little more and when he decides what he wants to do he will meet with them for discussion.

During discussion of the proposed contract from Hydro Solutions, Lockman stated there are blanks that have not been filled in such as the cost of the project. Kampfe said a rate sheet is supposed to be attached to the contract and is missing. Stauffer said there is no statement as to who owns materials, notes and the work that is completed. He said there is also no statement providing a work certificate of Worker's Compensation. Discussion was held on the amount of liability insurance needed in the contract.

Scanlin said she feels the City does need professional help in regards to water rights. She said one of the hang-ups when you are using someone else's water rights is the changing of the place of use. She would like this addressed before water is measured. She said the scope of work needs to be examined.

CITIZEN REPORT Beth Hutchinson said that BMW motorcycles are having a gathering in Gillette, Wyoming the same weekend as the rally in Red Lodge. She said it is likely that many of these people will also come to Red Lodge. She said the Chamber would likely be involved with the sponsors to lay out the scope of time frames, terms of what can realistically go on in Red Lodge. She wants the City to know just what the impact might be on Red Lodge for a couple of weeks during this time frame.

Estelle Tafoya thanked the Council for the help they are giving on the Cooper lots with the fees they waived.

OLD BUSINESS None

NEW BUSINESS None

CORRESPONDENCE A letter was submitted by the school district requesting a waiver of fees. The Mayor asked the committee to review this request and come back at the next meeting to discuss the request and see what the City would be inclined to do.

MISCELLANEOUS Mayor Roat told the Council that the public restrooms are being cleaned but during some events with a lot of people on weekends it can sometimes become very dirty. He would like to see it incorporated into the request for the event that the sponsor pay additional funds for the frequent cleaning of the restrooms during the event.

Meeting adjourned at 9:30 p.m.

Mayor

ATTEST:

City Clerk

Minutes corrected at the October 23 meeting.