

September 14, 2010

A public hearing was noticed in the Carbon County News, the Post Office and City Hall for the FY 2011 Budget. This public hearing was opened at 6:30 p.m. No one spoke to the budget and it was closed at 6:45 p.m.

The Red Lodge City Council met in regular session on September 14, 2010 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, Richter, Labrie, Kennicott and Priest. Absent: Alderman Mahan.

MINUTES OF AUGUST 24 Motion by Kampfe, second by Labrie to approve the minutes of the August 24 meeting as submitted. On roll call vote all Aldermen present voted "Aye". Motion carried.

CLAIMS AGAINST THE CITY Motion by Kampfe, second by Kennicott that claims against the City totaling \$239,769.07, 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 reported on some of the claims that will be paid at this time. He said there was a claim from Davey Tree Surgery Co. for \$5720 for trimming and removing some trees in Rotary Park. Sundance Solar was paid \$69,256 for another draw on the solar array panel project. BuiltRite Bleachers was paid \$7987 for new bleachers that have been installed at the baseball field.

OFFICERS REPORTS The officer's reports were presented to the Council for their review. Kennicott commented on the report presented by the Chief of Police. She said there were six DUI's and eight animal citations for the month of August. She said the water loss was only 42% and is the lowest the last year.

COMMENTS FROM PUBLIC REGARDING AGENDA ITEMS None

SPECIAL COMMITTEES – None

ADMINISTRATION – Resolution #3314 – FY 2011 Budget

RESOLUTION NO. 3314

A RESOLUTION OF THE CITY OF RED LODGE, MONTANA APPROVING AND ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2010-2011, AS PROPOSED BY THE RED LODGE CITY COUNCIL ON SEPTEMBER 14, 2010.

WHEREAS, the Carbon County Assessor reported that the taxable valuation of the City of Red Lodge for Fiscal Year 2010-2011 is \$6,046,569, and

WHEREAS, the City Council adopted the Preliminary Budget for Fiscal Year 2010-2011 and there were no protests to the adoption of the Preliminary Budget at a public hearing held on September 14, 2010, at 6:30 p.m.

NOW THEREFORE, BE IT RESOLVED that the following Final Budget for Fiscal Year 2010-2011 is hereby adopted and the total mill levy set at 139.17.

Fund Name	Total Requirement	Non-Tax Resources	Property Tax Revenue	Mills
1000 General	1,920,717	1,291,814	628,903	104.01
2190 Comp. Ins.	91,997	51,485	40,512	6.70
2370 Fire Retire	41,808	23,669	18,139	3.00
2371 Health Ins.	96,523	600	95,923	15.76
2372 PERS	63,355	57,309	6,046	1.00

2375 Police Retire	54,976	38,651	16,325	2.70
3020 Fire Truck Levy	41,523	5,244	36,279	6.00
2100 Resort Tax	926,967	926,967		
2220 Library	129,778	129,778		
2394 Bldg. Code Enf.	86,311	86,311		
2396 CDBG/HOME	83,878	83,878		
2820 Gas Tax	112,405	112,405		
2956 ISTEAA	243,592	243,592		
2990 Stimulus Funds	10,973	10,973		
4030 Capt. Proj.	846,522	846,522		
5210 Water Opert.	2,140,172	2,140,172		
5310 Sewer Opert.	1,928,432	1,928,432		
5410 Solid Waste	391,612	391,612		
7010 Ceme. Trust	108,121	108,121		
7050 Dance Pavilion	1,014	1,014		

Total	9,320,676	8,478,549	842,127	139.17
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Motion by Kampfe, second by Labrie to approve Resolution #3314, a resolution of the City of Red Lodge, Montana approving and adopting the final budget for fiscal year 2010-2011, as proposed by the Red Lodge City Council on September 14, 2010. On roll call vote all Aldermen present voted "Aye." Motion carried.

The ambulance budget was removed from the General Fund due to the passage of the Ambulance District proposal.

Ordinance #887 – Refusal to Submit to Blood or Alcohol and/or Drug Test – First Reading
ORDINANCE NO. 887

AN ORDINANCE AMENDING THE RED LODGE CITY CODE MAKING IT A CRIME TO REFUSE TO SUBMIT TO BREATH OR BLOOD ALCOHOL AND/OR DRUG TEST. AMENDING TITLE 6-1-11 OF THE RED LODGE MUNICIPAL CODE.

WHEREAS: The State of Montana and the City of Red Lodge have determined that having physical control of a motor vehicle while in an impaired condition presents a significant risk to the public safety and general welfare; and

WHEREAS: The provisions of Montana Law allow municipal governments to regulate traffic upon streets within the Corporate limits; and

WHEREAS: The Red Lodge City charter provides for the exercise of self-government powers; and

WHEREAS: Montana Law grants authority and powers to local governments to regulate the operation of motor vehicles by a person under the influence of alcohol and/or drugs.

Now therefore:

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

The Red Lodge City Code is hereby amended in those parts set forth below to read as follows:

Section 6-1-11: REFUSAL TO SUBMIT TO BREATH OR BLOOD ALCOHOL AND/OR CRUG TEST.

6-1-11 A Purpose and Intent.

B Unlawful to refuse to submit to a breath or blood alcohol and/or drug test.

C Penalties.

6-1-11A: **Purpose and Intent.**

Any person operating or in actual physical control of a motor vehicle while under the influence of alcohol and/or drugs creates a significant risk to public safety, health and general welfare. To help secure public safety, health and general welfare for all persons, the City of Red Lodge adopts this chapter in an effort to deter persons from engaging in this dangerous activity. This chapter is adopted pursuant to Montana Code Annotated 7-14-4102 and 7-14-4103 as well as pursuant to the exercise of the City of Red Lodge's self-government powers granted by the City of Red Lodge Charter.

6-1-11B: **Unlawful to refuse to submit to a breath or blood alcohol and/or drug test.**

It is unlawful and constitutes a misdemeanor offense for any person operating or in actual physical control of a motor vehicle suspected of doing so while under the influence of alcohol and/or drugs to refuse to submit to one or more breath or blood alcohol and/or drug tests to detect alcohol and/or drugs requested and designated by any peace officer as defined by Montana State Law. Prior to charging a person with a violation of this section a peace officer must inform the person requested to take the designated test that refusing the breath or blood alcohol and/or drug test is a misdemeanor offense under Red Lodge City Code and identify the penalties associated with the offense. If any arrested person refuses to submit to one or more breath or blood alcohol and/or drug test requested and designated by a peace officer as provided by Montana State law, the refused test may not be given. However, the person refusing to submit to any such requested breath or blood alcohol and /or drug test may be charged with a misdemeanor offense pursuant to this section.

6-1-11C: **Penalties.** The penalties for a violation of this chapter are established pursuant to this section. Incarceration is not a penalty for violation of this chapter. A person convicted under this chapter shall be subject to a fine of Five Hundred Dollars (\$500.00), no portion of which may be suspended, waived or deferred by the court.

Motion by Kampfe, second by Richter to approve Ordinance #887, an ordinance amending the Red Lodge City Code making it a crime to refuse to submit to breath or blood alcohol and/or drug test. Amending Title 6-1-11 of the Red Lodge municipal code on first reading. On roll call vote all Aldermen present voted "Aye." Motion carried.

Kampfe said the committee reviewed the ordinance and they did have different feelings. They were not all in agreement so they have no recommendation to make. Kampfe said the State Legislature will be addressing this issue for State statues. He said his hesitation was for the City to unilaterally take these steps so it would not be consistent across the State. There are some municipalities in the State that have already adopted like ordinances.

Kennicott said that if cities and towns were to show concern it would show how the severity of the issue is considered. She hoped it would show the legislature how communities feel about this issue.

City Attorney, Sam Painter, said he feels this ordinance will be defensible. Painter said that his recommendation is for the Council to consider this ordinance with the understanding that it has not been challenged successfully elsewhere in the State.

Airport Agreement Kampfe said the Airport Board would be made up of two representatives from Red Lodge, two representatives from Bridger and the three County Commissioners themselves and not three appointments made by them. This request for the constitution of the Airport Board came from the County Commissioners. Kampfe said the current agreement does not include the Town of Bridger. He said it is assumed that Bridger has their own agreement with the Airport Board. Priest said they do and that it is very similar to Red Lodge's agreement. The request has been made to combine these two agreements. Priest said the Board has been working jointly with both communities for the last twenty-five years. Bridger is agreeable to combining the agreements but Labrie said more information will need to be received from Bridger and they would need to work jointly with Red Lodge to write up the agreement. Work will go forward in this direction.

Priest said he brought up the fact that City residents are being taxed twice for the Airport. Once as a resident of the County and once as a resident of the City. The Board told him that if the City wanted this changed they could take over the maintenance of the airport.

Police and Emergency Services Kennicott said that September 27 is the deadline to receive letters of interest for people to serve on the Ambulance District Board. There will two appointments made from the County, two from Red Lodge and one from Bearcreek.

Land Use and Planning – Mountain Springs Villa MOU Compliance with Conditions Motion by Labrie, second by Kampfe to approve the MOU between the City of Red Lodge, DOWL-HKM and NeighborWorks Montana to complete the improvements remaining as outlined in the document. All aldermen present voted “Aye.” Motion carried. Amendment to motion by Kampfe, second by Richter to approve #13 with the addendum which states, “It is the intent of the parties that, upon performance by DOWL-HKM and NWM of the requirements set forth above, the punch lists previously issued by the City of Red Lodge will have been satisfied, even though certain work as set forth above shall be performed by separate contract between the City of Red Lodge and such contractor(s) to be selected by the City of Red Lodge and paid for out of funds provided by the NWM letter of credit. Furthermore, the City of Red Lodge may formally accept the project consistent with this agreement and the Red Lodge Subdivision Regulations. With such acceptance the one-year warranty period on the project will commence. This provision is not intended to release DOWL-HKM or NWM from any liability, either or both may have, for work performed by them, or their respective subcontractors, in connection with the project.” On roll call vote all Aldermen present voted “Aye.” Motion carried.

Sanderson told the Council that the \$164,000 letter of credit has been extended until March 18, 2011. The required public improvements will be done with this money.

The Council received letters from Sam Painter, City Attorney, William Cole, attorney for Larry Yung, Sanderson/Stewart and Tim Filz, attorney for NeighborWorks Montana. Discussion was held by all involved regarding the MOU. Larry Yung has concerns with the slope of Coutts Ave. behind his business, Alpine Motel, and if a safety barrier or measure will need to be built. DOWL-HKM and Sanderson/Stewart do not feel a retaining wall needs to be erected and that all standards have been met.

Much of the discussion on this MOU was in regard to #13. This section states “It is the intent of the parties that upon performance by DOWL-HKM and NWM of the requirements set forth above, the project will be deemed completed, the City of Red Lodge will be deemed to have accepted the project and the one-year warranty period on the project will commence.” Sanderson said that upon completion of all the items in the MOU this item would come back to the City for acceptance one more time. Discussion was held that some felt this meant that the City would accept the development without any more discussion being held. Sanderson said that upon completion of all the items in the MOU the development would come back to the City for acceptance one more time.

Labrie asked about the Hergett property and if it was part of the project. She asked if this property is being addressed so there is no flooding in Hergett’s area. DOWL-HKM told Labrie there is a sixty-foot public right-of-way that goes across the Brewer property and the water will be directed into this right-of-way. Sanderson said the storm water would be routed from Hauser Ave. to this right-of-way so it could be dissipated.

Tim Filz presented another version of #13 to be used in the MOU if the Council and others felt better with it. This change, with some corrections made, was adopted into the motion amendment.

Ordinance #886 – Adoption of 2009 International Building Code – Second Reading
ORDINANCE NO. 886 (caption)

AN ORDINANCE AMENDING THE RED LODGE CITY CODE INCORPORATING AMENDMENTS TO THE STATE’S BUILDING CODES ACCORDING TO ARM NOTICE #24-301-2246 BY REFERENCE.

Motion by Kampfe, second by Labrie to adopt Ordinance #886, an ordinance amending the Red Lodge City Code incorporating amendments to the State’s Building Codes according to ARM Notice #24-301-2246 by reference, on second reading. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Public Works Richter said that public works has been doing some catch up work with paving around town. They also did the gravel in the parking lot of the High School and the Nature Center. She reported that the Safe Routes to School bids are going out. The training for the solar panel project is going on line next week and there will then be training for the crew.

Mayor Roat said the fire hydrant list that was given to him is being worked on. There were about thirteen hydrants that needed repair and one needs to be dug up so the list is not completed yet. Mayor Roat said he made some prototype light bulb holders for NorthWestern Energy to install on the Broadway street lights. They should not be melting and burning out. A pilot project will be done on these.

Kennicott asked how the speed limit sign and street sign on Airport Road get changed per resolution and ordinance? She was told that the Police Chief is the one to tell public works what needs to be changed and public works then gets the correct signage and changes it out.

CITIZEN REPORT None

CORRESPONDENCE Mayor Roat had given the Council a copy of a letter written by Emile Ruffier to MDT regarding the project that will be done on Highway 212. Kennicott commented that it is always good for the public to let the State know their feelings on various projects.

MISCELLANEOUS Labrie presented Mayor Roat with a plaque for being the Grand Marshal for the first annual Carbon County Founders Day. Founders Day was in honor of the 100th Anniversaries of the Labor Temple and First Interstate Bank. Mayor Roat was thanked for his participation in this event.

Meeting adjourned at 8:45 p.m.

Mayor

ATTEST:

City Clerk