

September 22, 2009

A public hearing was noticed in the Carbon County News, the Post Office and City Hall for the FY 2010 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 22, 2009 at 7:00 p.m. The meeting was called to order by Mayor Scanlin followed by the Pledge of Allegiance to the Flag.

Mayor Scanlin announced that agenda item 6C3. - Land Sale-Heritage Propane Site has been taken off the agenda so it can be reviewed by the Council as a whole. This item will be on the October 13, 2009 agenda.

**ROLL CALL OF OFFICERS** Present: Mayor Scanlin, Aldermen Mahan, Richter, Labrie, Kennicott and Priest. Absent: Alderman Kampfe.

**MINUTES OF SEPTEMBER 8** Motion by Mahan, second by Labrie to approve the minutes of September 8 as corrected. On roll call vote all Aldermen present voted "Aye." Motion carried.

Kennicott corrected the following sentence under Emergency and Police Services. "The next **LEPC** committee meeting will be September 15 at 1:00 p.m." Mayor Scanlin corrected the following sentence under Riverside Contracting/Draper Ranch Gravel Mining Application. "At this point **the application is pending a response to a letter of deficiency from DEQ** (there is not an application pending).

**COMMENTS FROM PUBLIC** None

**SPECIAL COMMITTEE** None

**STANDING COMMITTEE – Administration – Solar Panel/Variable Drive Stimulus Funds** Mayor Scanlin said that earlier this year the City applied for Stimulus Funds and was approved for a project for solar panels at the Wastewater Treatment Plant. The Council considered this and denied the first proposal. DEQ notified the City that they are still eligible for these funds if they wanted to devise a revised project. Mayor Scanlin said a revised proposal has been put together for the Council's consideration.

Mayor Scanlin told the Council that partly due to stimulus funds and a lot of industries in the nation benefiting the cost of solar panels has decreased by \$60,000. This is a major factor in making the new project workable. Sanderson said that one of the variables in the first presentation for this project was the idea of whether or not the City would be successful in obtaining a \$50,000 grant from NorthWestern Energy. This variable has been eliminated by an anonymous donor guaranteeing \$50,000 to the City if they are not successful in obtaining the NorthWestern Energy grant. In addition this project qualifies for the use of the remaining HB 645 money, which comes to \$10,964. The inclusion of this money also improves the financial picture for this project. Sanderson said that, unfortunately, the City is on an abbreviated timeline. In order to proceed with this project, the Council must take an affirmative action at the October 13, 2009 meeting to approve the project or the City will be required to return the \$518,400 to DEQ. These funds cannot be used for any other infrastructure projects.

Ray Armstrong said this project would supplement the existing blowers that add oxygen and air to the lagoon system for the processing. He said that in addition to the solar panels they have included the installation of a Variable Frequency Drive (VFD) on the blowers that will save electricity and may reduce the demand charges. The installation of modern controls and monitoring systems in the lagoons will insure that the blowers are only operating when they are needed and using the minimum amount of electricity necessary to

accomplish aeration of the lagoon system. Armstrong showed graphs of how the blowers would work to match the needs of the City.

Judith Gregory gave the Council a financial analysis on the installation of the solar panels and VFD on the existing blowers. She said the total capital cost of the project would be \$440,706. This amount, less the loan forgiveness of 52% of the capital cost, \$229,167, the HB 645 discretionary funds \$10,964 and the NorthWestern Energy grant or private donation of \$50,000 makes the amount to finance \$150,575. The proposed loan interest rate is .75% with a loan term of 20 years making the annual debt payment \$8,136. It was pointed out by Priest that the loan interest rate is not yet known. The estimated life of the solar system is thirty years. Using this diagram and figures the payback will be 22 years. Gregory said the National Resource Council asked the City to use the figure of \$2,034 annually for maintenance costs and to fund this amount. Gregory was thanked for the work she has done on this project.

Priest said the Council will need to consider and make a decision on the assumptions that are used in this presentation. Those being the inflation rate, the discount rate, what the expectation of output will be, given the diversity of information. He hopes to have these cleared up a little before the next discussion.

Henry Dykama said he feels the maintenance will not be very technical or costly for the solar panels.

Members of the Climate Control Committee thanked the Council for their consideration of this project.

**Appointment to Library Board** Jack Exley has stated that he is interested in being reappointed to the Library Board. Mr. Exley was initially appointed in 2008 to fill a vacancy left by a retiring member of the Board. Mayor Scanlin told the Council that she would like to appoint Jack Exley to the Library Board.

Motion by Priest, second by Mahan to approve the reappointment of Jack Exley to the Library Board. On roll call vote all Aldermen present voted "Aye." Motion carried.

**Resolution No. 3289 – Final Budget FY-10**

**RESOLUTION NO. 3289**

**A RESOLUTION OF THE CITY OF RED LODGE, MONTANA APPROVING AND ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2009-2010, AS PROPOSED BY THE RED LODGE CITY COUNCIL ON SEPTEMBER 22, 2009.**

**WHEREAS**, the Carbon County Assessor reported that the taxable valuation of the City of Red Lodge for Fiscal Year 2009-2010 is \$5,765,190, and

**WHEREAS**, the City Council adopted the Preliminary Budget for Fiscal Year 2009-2010 and there were no protests to the adoption of the Preliminary Budget at a public hearing held on September 22, 2009, at 6:30 p.m.

**NOW THEREFORE, BE IT RESOLVED** that the following Final Budget for Fiscal Year 2009-2010 is hereby adopted and the total mill levy set at 138.22.

Fund Name	Total Requirement	Non-Tax Resources	Property Tax Revenue	Mills
1000 General	2,211,028	1,664,719	546,309	94.76
2190 Comp. Ins.	99,513	46,013	53,500	9.28
2370 Fire Retire	37,280	15,834	21,446	3.72
2371 Health Ins.	139,505	30,600	108,905	18.89
2372 PERS	59,322	53,211	6,111	1.06
2375 Police Retire	54,985	28,984	26,001	4.51
3020 Fire Truck Levy	35,388	797	34,591	6.00
2100 Resort Tax	1,129,340	1,129,340		
2220 Library	139,299	139,299		
2394 Bldg. Code Enf.	102,517	102,517		
2396 CDBG/HOME	382,393	382,393		
2820 Gas Tax	119,386	119,386		

2956 ISTEA	67,477	67,477
2990 Stimulus Funds	10,000	10,000
4030 Capt. Proj.	764,525	764,525
5210 Water Opert.	2,308,500	2,308,500
5310 Sewer Opert.	1,898,100	1,898,100
5410 Solid Waste	361,100	361,100
7010 Ceme. Trust	105,336	105,336
7050 Dance Pavilion	1,014	1,014

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Total	10,026,008	9,229,145	796,863	138.22
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Motion by Richter, second by Labrie to approve Resolution No. 3289, 2009-2010 budget as presented. Amendment to motion by Priest, second by Labrie to make the changes in Resort Tax to reduce paving to \$225,000 and putting \$265,787 into capital reserve, in water remove \$200,000 for the generator and \$588,000 for meters from capital outlay and move to capital reserve and in sewer remove \$500,000 for meters and \$75,000 for storm water pond in capital projects and move to capital reserve. On roll call vote those in favor: Aldermen Labrie and Priest. Those opposed: Aldermen Mahan, Richter and Kennicott. Motion failed. On roll call vote on the main motion those in favor: Aldermen Mahan, Richter and Kennicott. Those opposed: Aldermen Labrie and Priest. Motion failed.

Priest said the Council has not seen any information on these particular projects so he feels they should be removed until more information is received and can be discussed before any of these projects are started. Priest would like to see the funding put in capital reserve and then the Council can spend the time reviewing the projects and make sure this is what needs to be done and at what time in the process. This is agreed upon by the Council as being important. Kennicott stated that any project can be set aside if the Council does not feel now is the valid time to do it.

**Emergency and Police Services** Mayor Scanlin reported to the Council that a letter of resignation has been submitted to the City by Jeremy Neibauer. He will be going to work for the Carbon County Sheriff.

Kennicott reported on the committee meeting held earlier today. The committee decided it would be good to have information out to the community regarding the resort tax ballot initiative by the second week in October. It is important that this issue not be confused with the ambulance district initiative. The police thought it would be negligible to cut back on streetlights but in some cases it could prove to be a benefit. The Chief has provided suggestions for increased fines for animal control and Kennicott said she would work with the Administration Committee on a resolution.

Various comments were made regarding the sale of land to Heritage Holding. The comments were all in the area of safety, especially to the surrounding area. The questions raised were such as to address the Growth Policy and if it is in the best interest to sell for the stated amount or is there a higher and better use for the property.

Kennicott said the Trauma Symposium attendance was 250 people. Aaron McDowell and Chris Benton gave a very effective presentation of the carbon monoxide incident at Rock Creek Resort.

The LEPC meeting was held September 15, 2009. There is still no signature sheet on the Emergency Operations Plan but Darrel Krum will meet with Mayors individually to ensure they are aware of the plan. The County has received a grant of \$17,000 to revise the plan and they will be issuing a RFP. Tom Kohley briefed the committee on the Enhanced-911 and said there is a 95% accuracy for name, telephone numbers and physical addresses. There are issues with people who have cell phones and no landlines. Kohley also gave an update on the GIS mapping which spots the incident and gives the quickest route to an incident and

even who should be paged to respond. The next LEPC meeting will be October 20, 2009 at 1:00 p.m. and Tom Kuntz will speak on Unified Command.

**Land Use and Planning – Resolution No. 3291 – Abandon Alley – Mountain Springs Villa  
RESOLUTION NO. 3291**

**A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA TO VACATE AND ABANDON A PORTION OF THE ALLEYS IN BLOCK 95, ORIGINAL PLAT OF RED LODGE, SECTION 27, TOWNSHIP 7 SOUTH, RANGE 20 EAST, P.M.M., CARBON COUNTY, MONTANA.**

**WHEREAS**, the City of Red Lodge received a petition to vacate and abandon a portion of the alley Block 95 described in the final plat application as follows; and

**WHEREAS**, the City of Red Lodge granted preliminary approval of the Mountain Springs Villa subdivision and imposed a condition providing for the abandonment of the alley with final plat; and

**WHEREAS**, the City Council adopted Staff Report MJR-08-02 as findings of fact; and

**WHEREAS**, notice of the intent to vacate and abandon the portion of the alleys described in this resolution as provided by 7-14-4114 M.C.A. was published in the Carbon County News Legal on April 24, 2008 edition of Carbon County News; public hearing notices were posted in City Hall and the Post Office on April 22, 2008; and

**WHEREAS**, the City Council conducted a public hearing on May 27, 2008 on the resolution of intent to vacate and abandon, and no one spoke in opposition; and

**WHEREAS**, NeighborWorks Montana has petitioned for filing of an Amended Plat of Mountain Springs Villa that complies with the requirements of the preliminary approval and Montana Subdivision law.

**NOW, THEREFORE BE IT RESOLVED** by the Red Lodge City Council that the portions 95 as described in this resolution are vacated and abandoned.

Motion by Mahan, second by Labrie to approve Resolution No. 3291-Abandon Alley Mountain Springs Villa. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Sanderson said the action taken is to trade two small segments of alley and in exchange platting a 50-foot wide street through the middle of block 95. So the exchange is an alley for a 50-foot wide driving surface. He said this is a good deal for the City and is consistent with the final plat. Mahan said the Land Use Committee is recommending this action.

**Mountain Springs Villa – Final Plat** Preliminary plat approval was issued on May 8, 2008 subject to 22 conditions.

Motion by Mahan, second by Labrie to adopt Staff Report RLFP-09-01 as findings of fact and that the Amended Plat for the Mountain Springs Villa Subdivision be approved. Friendly amendment to the motion that the City acknowledge there is a zoning violation and the zoning violation be managed by the Zoning Administrator and the Mayor. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Sanderson said the Council decision needs to be based on facts and conclusions of law. The final plat application and supporting materials propose to aggregate 12 existing lots in Block 95 RLOP and two separate tracts of record into new tracts of record to be used as a 30-unit manufactured home park.

Sanderson presented the conditions to the Council. Conditions 1-6 have been met. Condition 7 “The developer shall extend the City water main from its existing location such that the City water services area shall be available to each unit within the subdivision. Said extension must be approved by the Red Lodge Public Works Director.” The developer has bonded for the completion of the required improvements. The City is not accepting the improvements until such time as they are completed, inspected and certified as meeting the requirements of the City.

Condition 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.” The developer has bonded for the completion of the improvements.

Condition 9 is not applicable. Conditions 10-19 have been met. Condition 20 is not applicable. Condition 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.” Sanderson said the condition is not applicable in part and has not been met in part. He said in the east half of Block 95 the five units that have been located on the property do not meet the prevailing setback standards of the Red Lodge Community Entrance Zoning District from the rear property line. That setback distance is ten feet. This has become a zoning violation and Sanderson said he and the Mayor will handle it as such. This deficiency can be corrected. Condition 22 has been met.

In addition to the 22 conditions, the Subdivision and Platting Act contains a number of provisions that must be satisfied as a prerequisite to final plat filing. These provisions are as follows:

1. Park dedication requirement. This project is required to provide parkland in accordance with 76-3-621 MCA. The project dedicated 2.22 acres of parkland, which meets the statutory requirement.
2. Certificate of title abstracter. A certificate of a title abstracter showing the names of the owners of record and any lien holders has been provided and demonstrates that ownership of the land vested in Montana Home Ownership Network, Inc. The property is subject to a lien from the Montana Board of Housing and they have signed a consent to plat.
3. County treasurer certification. A proper certification for the County Treasurer to execute prior to recordation of the plat has been provided on the final plat and will be dealt with.

Priest said the sewer line that goes to the north and is supposed to be gravity fed to the south is not mentioned in this document and he asked if the City is accepting these improvements. Sanderson said the City has not accepted any of the public improvements such as water, sewer, curbs, gutters, sidewalks or streets. When the improvements are complete the developer will ask for the bond money back but improvements will not be accepted until completed.

Don Coutts asked who was responsible for the sewer extension onto property where there was no easement. Ray Armstrong replied that Dowl-HKM accepted the responsibility and they would take care of the corrections and any associated costs. Armstrong further stated that the residents were free to move back into their homes.

**Carbon County Growth Policy – City-County Cooperation on Land Use and Planning** Sanderson said a public hearing was held September 15 on the Carbon County Growth Policy. He said he was glad he attended as none of the issues the City recommended for inclusion to the policy were entered. Sanderson said he was allowed to testify regarding these items. He said the County accepted that they would use the data that was supplied where it furthered their needs. They would acknowledge and tie their trails plan to the City trails plan to move forward. They will recommend the creation of a City-County Planning Board and all of the other tenants. Sanderson said the big win is the County Planning Board recognizing the need for a jurisdiction around the City of Red Lodge. They admitted that about 80% of the work they do is Red Lodge work. The County Commissioners can then accept all, some or none of the City recommendations.

**Ordinance #879 – Draft Subdivision Regulations** The Council needs further time to review these regulations. This discussion will be postponed to a later date. Sanderson said the public hearing has been scheduled for October 13, 2009 with the Resolution of Intent being presented at the same meeting. Sanderson said he would detail the report.

**MAP Conference** Sanderson reminded the Council that the MAP conference will be held in Red Lodge at the Pollard on September 30, October 1<sup>st</sup> and 2<sup>nd</sup>.

**Public Works – Resolution #3290 – Urban Forest Management Plan**  
**RESOLUTION NO. 3290**

**A RESOLUTION TO APPROVE AND ADOPT THE URBAN FOREST MANAGEMENT PLAN.**

**WHEREAS**, the City Parks Board has prepared an Urban Forest Management Plan (“the Plan”); and  
**WHEREAS**, the City Parks Board held a Public Hearing on August 19, 2009, at the regularly scheduled Parks Board Meeting; and

**WHEREAS**, the development of this plan was partially funded by the Montana Department of Natural Resources (DNRC) Urban Forestry Program; and

**WHEREAS**, the public has been involved throughout this process and participated at every level, with good publicity before and after each public meeting and ample opportunity for interested parties and stakeholders in this project to voice their opinions and provide informed input; and

**WHEREAS**, this Plan was presented by the Parks Board to the City Council on August 25, 2009.

**NOW, THEREFORE BE IT RESOLVED:**

1. The Urban Forest Management Plan is approved and adopted; and
2. The Urban Forest Management Plan is to be followed and incorporated into planning for the City; and
3. The City is to use its best efforts to include funding in its annual budget to implement this Plan and assure progress toward its completion.

Motion by Priest, second by Mahan to adopt Resolution #3290. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Kennicott asked what the next steps are and who takes them. Kohley said the majority of the work and implementation of the plan will fall on the Parks Board. He said we would like to have Public Works become more involved.

**Urban Excellence Forestry Award** Tom Kohley told the Council that the City has been awarded a DNRC Urban Excellence Forestry grant. This grant is for \$1000 and will be used to educate the youth in the schools about the importance of urban forestry. Marc Swanson will be helping with this education process.

**Recycling** Mahan said that Eric Little is moving forward with his ideas on recycling. The committee will be meeting with him again this week. Little is trying to recycle items that are not currently being accepted and he will deal with the program. The City will not be a part of his ventures but he is keeping the committee updated on his progress.

**Large Event Committee** Priest said the committee will be making a proposal regarding a separate license registration for transient merchants. He said that the City Attorney, Sam Painter, might already have addressed what they will be proposing. Priest asked Mayor Scanlin if she would meet with the committee to address this topic and review the comments from the attorney. The Mayor asked for an update report on the Large Event Committee at the next meeting. Priest said the next meeting will be held September 30 and that County Commissioner Prinkii will be in attendance so both County and City can discuss this issue.

**CITIZEN REPORT** Don Coutts asked about the watering at the cemetery not being done. Mayor Scanlin said she would check into this, as it is a valid concern.

Terry Tomlin told the Council that the lodging industry has had a good season this year. She said she has been tracking on road referrals and they have been good. She thanked the Council for being as progressive as they are.

**OLD BUSINESS** Sanderson reminded the Council that the City received \$5000 from DNRC and \$20,000 from the Department of Commerce to prepare zoning. He said the RFP-SOQ has been submitted to the Department of Commerce for review and approval. The Council needs to decide which committee will be reviewing the firms that submit proposals and ultimately make a recommendation.

**NEW BUSINESS** None

**CORRESPONDENCE** None

**MISCELLANEOUS** None

Meeting adjourned at 9:20 p.m.

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Mayor

ATTEST:

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City Clerk