

September 9, 2008

The Red Lodge City Council met in regular session on September 9, 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 Kampfe, Mahan, Lockman, Labrie, Kennicott and Priest. Absent: None.

MINUTES OF AUGUST 26 Motion by Mahan, second by Labrie to approve the minutes of August 26 as presented. On roll call vote all Aldermen present voted "Aye." Motion carried.

CLAIMS AGAINST THE CITY Motion by Kampfe, second by Priest that claims against the City totaling \$888,954.01 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 that the large amount being paid this month was due to the 2007 water rehab project. HKM had a claim for \$45,000, COP Construction is being paid \$319,000 and Century Company had a claim for \$153,000. HKM also had a claim for engineering work done on the Highway 212 water line extension for \$27,000.

OFFICERS REPORTS The officer reports were approved by the Council as submitted. Mayor Scanlin reported that the water loss for the month was down to 30%. This is down from a 60% to 70% loss. The main 16 inch line from the treatment plant to town has not yet been connected and it is hoped that the loss will be even less when this happens.

SPECIAL COMMITTEE None

**STANDING COMMITTEES – Administration – Resolution No. 3264 – FY 09 Final Budget
RESOLUTION NO. 3264**

A RESOLUTION OF THE CITY OF RED LODGE, MONTANA APPROVING AND ADOPTING THE FINAL BUDGET FOR FISCAL YEAR 2008-2009, AS PROPOSED BY THE RED LODGE CITY COUNCIL ON SEPTEMBER 9, 2008.

WHEREAS, the Carbon County Assessor reported that the taxable valuation of the City of Red Lodge for Fiscal Year 2008-2009 is \$5,358,250, and

WHEREAS, the City Council adopted the Preliminary Budget for Fiscal Year 2008-2009 and there were no protests to the adoption of the Preliminary Budget at a public hearing held on July 8, 2008, at 6:30 p.m.

NOW THEREFORE, BE IT RESOLVED that the following Final Budget for Fiscal Year 2008-2009 is hereby adopted and the total mill levy set at 157.23.

| Fund Name | Total Requirement | Non-Tax Resources | Property Tax Revenue | Mills |
|--------------------|-------------------|-------------------|----------------------|-------|
| 1000 General | 2,330,627 | 1,814,574 | 516,053 | 96.31 |
| 2190 Comp. Ins. | 95,007 | 44,265 | 50,742 | 9.47 |
| 2370 Fire Retire | 36,621 | 14,438 | 22,183 | 4.14 |
| 2371 Health Ins. | 185,989 | 30,600 | 155,389 | 29.00 |
| 2372 PERS | 56,133 | 40,702 | 15,431 | 2.88 |
| 2375 Police Retire | 51,392 | 28,352 | 23,040 | 4.30 |

| | | | | |
|----------------------|-------------------|---------|-------------------|----------------|
| 3020 Fire Truck Levy | 32,445 | 296 | 32,149 | 6.00 |
| 2100 Resort Tax | 1,268,346 | | 1,268,346 | |
| 2220 Library | 107,542 | 107,542 | | |
| 2394 Bldg. Code Enf. | 134,793 | | 134,793 | |
| 2396 CDBG/HOME | 58,086 | | 58,086 | |
| 2500 RSID#8	 | 1,908 | | 1,908 | |
| 2820 Gas Tax | 124,363 | 124,363 | | |
| 2956 ISTE A | 2,002 | | 2,002 | |
| 4030 Capt. Proj. | 961,163 | | 961,163 | |
| 5210 Water Opert. | 6,137,627 | | 6,137,627 | |
| 5310 Sewer Opert. | 1,745,033 | | 1,745,033 | |
| 5410 Solid Waste | 339,119 | 339,119 | | |
| 7010 Ceme. Trust | 101,851 | | 101,851 | |
| 7050 Dance Pavilion | 1,014 | 1,014 | | |
| Total | 13,771,061 | | 12,956,074 | 814,987 |
| | | | | 152.10 |

Kampfe said the budget process was a long and difficult one this year. One of the proposals from the Administration Committee this year is to not fill the vacancy left in Public Works. Toby Rhoades has been hired as the Building Inspector leaving a vacancy in Public Works. Kampfe said some other cuts were made in the Enterprise Funds. Some of the capital item projects listed are not being done on the recommendation of the committee. These capital items can be revisited next fiscal year. Rather they are making the suggestion to place money in a capital reserve and use some for debt service reduction. He said 38% will go towards capital reserve and 21% will be used for additional debt reduction.

Mayor Scanlin said the CIP was a major document done by the City listing projects that were felt to be important to the City. She feels debt reduction is a nice idea but if the funds are used in this manner it will limit capital projects that were listed in the CIP. Her suggestion is that some of the items listed are doable this year if the funds are not used as additional debt reduction.

Mahan asked that the salary matrix be discussed before a motion is made regarding Resolution No. 3264. Kampfe explained how the pay matrix was done by Local Government Associates. They used the job descriptions and information supplied by the City and made a recommendation to the City. Kampfe said that most of the union staff will receive a 6% to 15% pay increase. Some personnel, mostly the department heads will see no increase or a very minor increase as they received a substantial raise last fiscal year. Mayor Scanlin said the first draft matrix was erroneous so it was corrected and the second draft is the one being proposed and discussed in this conversation tonight. A third matrix draft was prepared using the updated job descriptions proposed by the public works. This matrix, however, did not use updated job descriptions for the other departments. The Council felt this was inequitable.

Shop Steward, Jim Bushnell, spoke to the Council regarding the pay matrix. Bushnell said the union has a problem with the job descriptions that were used to complete the matrix. As Shop Steward he told the Council that they only want to be treated fairly. Discussion was held on the job descriptions currently with the City and it was decided, by all, that new ones need to be written. This is something that will be worked on to get descriptions written for any position that does not currently have one and updates on any that are already being used. Kampfe stated that even if the pay matrix is approved by the Council that does not complete the contract with the union. This will still be an issue that needs to be resolved and completed.

Mayor Scanlin pointed out that there is a change in title for Scott Cope. He has moved up to the duties of Assistant Police Chief. The other correction that has been made is the mistitling of Lindsay Johnson. Mayor Scanlin pointed out that she is an Urban Designer rather than a City Planner. Her grade and salary will remain the same with this correction.

Motion by Kampfe, second by Lockman to approve the Red Lodge classified employees pay matrix with a total salary increase of \$50,237.09. On roll call vote those in favor: Aldermen Kampfe, Lockman and Labrie. Those opposed: Aldermen Mahan, Kennicott and Priest. Tied vote. Mayor Scanlin voted in favor of the motion. Motion carried.

Motion by Kampfe, second by Lockman to approve Resolution No. 3264 Adopting Budget for FY 2008-2009 with the following amendments: Water Fund corrections to category 701-Capital Reserve \$408,138 and category 702-Debt Reduction \$257,500. On roll call vote those in favor: Aldermen Kampfe, Lockman, Labrie, Kennicott and Priest. Those opposed: Alderman Mahan. Motion carried.

Ordinance No. 871 – Use of City Owned Property – First Reading

ORDINANCE NO. 871

AN ORDINANCE TO AMEND PREVIOUSLY APPROVED CITY ORDINANCE NO. 868 TO CLARIFY THE PROCESS AND REGULATIONS FOR THE USE OF CITY-OWNED PROPERTY WITHIN THE CITY OF RED LODGE.

WHEREAS: The streets, sidewalks, alleys, parks, publicly-owned buildings or vacant land or other public areas of The City of Red Lodge are held by the City for the benefit of the public; and

WHEREAS: On occasion, parties other than the City of Red Lodge may wish to use such areas for specific uses; and

WHEREAS: It is the position of the City that such uses may benefit the residents and property owners of The City of Red Lodge; and

WHEREAS: Negative effects of such uses can be avoided or mitigated; and

WHEREAS: The City of Red Lodge previously amended Ordinance No. 856 through the adoption of Ordinance No. 868 for purposes of clarification regarding the public’s use of city-owned property; and

WHEREAS: The City Council has determined it is in the best interest of the City of Red Lodge and its citizens to further amend Ordinance No. 868 as proposed and provided herein.

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

That Red Lodge City Ordinance No. 868 is hereby amended to read as follows:

Use of a City street, sidewalk, alley, park, or publicly-owned building or vacant land by an Applicant for a commercial use or special event shall be prohibited unless such use has been specifically approved in advance by the Red Lodge City Council as follows:

1. An Applicant shall submit a request for a proposed use of City-owned property to the City through written application specifying such use, the area of proposed use clearly designated on a map, whether or not alcohol will be served, the proposed period of time of such use, the number of people anticipated to participate, whether or not a street and/or alley closure is necessary, whether or not traffic control devices and/or police officers will be necessary, how trash will be removed, and whether or not restrooms are required and provided.
2. The City shall have the right to impose any condition pertaining to public health, safety and welfare upon its approval of an application, and shall retain the right to immediately revoke permission to use City-owned property for any violation of the conditions of approval. The City may require any Applicant to provide for additional sanitation, recycling, street washing, clean up, etc on City-owned property and for additional restrooms in amounts satisfactory to the Council. Failure to obtain approval in advance shall result in the City’s right to cause cessation of the activity.

3. The Applicant shall provide with the application evidence of notification of each property owner or its authorized representative abutting and within one hundred (100) feet of the proposed use to allow for their comment prior to the date of approval.
4. The Applicant shall obtain written acknowledgment of the proposed use from the City Police Department and City or equivalent Fire Department and Ambulance Service.
5. The applicant shall attach a copy of its City business license to the application.
6. Applicants shall pay at the time an application is approved \$175 towards cleanup and maintenance of the area proposed to be used (“Clean-up Deposit”) and either:
 - a. a non-refundable fee of \$10 per day or \$150 per calendar month, for use of each area of 120 square feet or less for the period(s) defined in the application, up to the maximum amount of \$100 per day plus an additional fee of \$100 shall be required when alcohol is served plus any additional costs of providing law enforcement in the discretion of the Council; or
 - b. rent appropriate to the circumstances associated with the use, in the discretion of the Council.
7. The Applicant shall submit with the application a commitment of insurance with indemnification of the City of Red Lodge in the amount of One Million Dollars (\$1,000,000) for liability in connection with the proposed use and naming the Applicant and the City of Red Lodge as additional insureds. The Applicants permit shall be immediately and automatically revoked if such insurance coverage is invalid, not current, or not in effect while using City-Owned Property.
8. Applicants shall not permit the display or sale of drug paraphernalia, firearms, knives, machetes, pepper spray, or any other tools, weapons, or devices capable of cutting, stabbing, bludgeoning, or otherwise inflicting serious bodily injury. Compliance with the terms and all relevant ordinances will be the responsibility of the Applicant.
9. Applicant shall clean the City-owned property used by the Applicant each day of use.
10. The Applicant’s Clean-Up Deposit shall be refunded upon verification by the City that, in the sole discretion of the City, the area is trash-free and has been restored to its condition prior to the use by 8 a.m. immediately following the last day of use. Upon such verification, the Applicant’s Clean-Up Deposit will be refunded the first City business day following verification.
11. Except during the 2nd, 3rd, and 4th of July and when the Beartooth Rally and Harley Rodeo are held, use of the area of City sidewalk within five (5) feet of the lot line of private property in any district zoned for commercial use shall be exempt from this ordinance but shall be subject to the consent of the owner of the real property or its representative on that property.

The deadline for filing a completed application shall be four weeks before the proposed use. Eight (8) copies of the application shall be submitted at the time of the filing.

Motion by Mahan, second by Lockman to approve Ordinance No. 871, regarding the regulation for the use of City owned property within the City of Red Lodge on first reading. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Ordinance No. 872 – Exhibition Driving – First Reading

ORDINANCE NO. 872

AN ORDINANCE OF THE RED LODGE CITY COUNCIL TO ADOPT AN EXHIBITION DRIVING OFFENSE TO BE INCORPORATED IN THE CITY’S MOTOR VEHICLE OFFENSES.

WHEREAS: The City Council previously adopted MCA Title 61 to govern the operation of motor vehicles within the City of Red Lodge; and

WHEREAS: MCA Title 61 does not include the traffic offense of Exhibition Driving, which the City Council has identified as necessary for the peace and welfare of the citizens of Red Lodge.

NOW THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA THE FOLLOWING IS ADOPTED AS AN ADDITION TO THE CITY’S TRAFFIC OFFENSES:

Exhibition Driving

- 1) **Exhibition driving unlawful.** It shall be unlawful for any person to engage in exhibition driving of any vehicle within the city limits. Prima facie evidence that this section has been violated shall be the operation of a vehicle in such a manner that it creates or causes unnecessary or excessive revving, and/or unreasonable tire squealing or screeching sounds emitted by tires, and/or, the unreasonable throwing of dirt or gravel, and/or rapid acceleration, rapid swerving or weaving in and out of traffic, producing smoke from tire slippage, or leaving visible tire acceleration marks on the surface of the highway or ground.
- 2) **Prevention of noise, smoke and regulation of muffler cutouts.** (a) Pursuant to Mont. Code Ann. § 61-9-403, every motor vehicle shall at all times be equipped with a muffler in good working order and in constant operation to prevent excessive or unusual noise and annoying smoke, and no person shall use a muffler cutout, bypass, or similar device upon a motor vehicle on a highway. (b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke.
- 3) **Penalty for Exhibition Driving.** A person convicted of subsection (1) shall pay a fine of up to \$500.00; or
- 4) **Penalty for Exhibition Driving Resulting from Modified Muffler.** A person who commits the offense of Exhibition Driving under subsection (1) if found to have a motor vehicle equipped with a muffler and/or an engine and/or power mechanism in violation of subsection (2) and Mont. Code Ann. § 61-9-403, he/she shall be fined not less than \$500.00.

When Suspension of Fine Allowed. The Court may not suspend a portion of the fine under subsection (4) unless the vehicle's exhaust/muffler modification is corrected within a reasonable time and the vehicle no longer emits excessive or unusual noise and/or smoke.

Mayor Scanlin said she had some concerns on how this ordinance could be prosecuted. She said that Kent Young pointed out that the ordinance in this format is open to interpretation and a possible challenge. Mayor Scanlin introduced two options to the ordinance during this discussion. One includes specifically the State code that speaks to muffler cutouts. The second alternative given by Sam Painter incorporates more detail and actually picks up the Federal code. She said this speaks more to the physical aspects and not so much the discretionary interpretation of what is unreasonable or excessive. She said the third version speaks to noise emission standards, which are very specific.

Motion by Mahan, second by Priest to approve Resolution No. 872 – Exhibition Driving on first reading. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Chief Pringle said the State has a law that they use for noise levels. The State law does have a distance requirement. He said he does not see the need to add into a City ordinance that which is already stated in State law.

Rand Herzberg said he would like to see the noise law put into place and implemented. His group would like to see the amount of noise minimized as they feel this is a serious problem.

Jan Gale stated that she sees a problem with the implementation of the law regarding straight pipes on a motorcycle. Mayor Scanlin told Ms. Gail that a meeting with Chief Pringle is being set up to discuss better enforcement of this issue with the laws already in place. She is welcome to attend.

Audrey Clark said that noise is the primary issue and she is not sure how this evolved into an ordinance on exhibition driving. She was told that this ordinance does not speak to the decibel level. She was told these are two separate issues but this ordinance does relate to noise in the idea of things like unnecessary engine revving.

Police and Emergency Services Lockman said the committee has been working on job descriptions. The police are looking at the fine structure to see if possible changes need to be made.

Mayor Scanlin said sidewalks were discussed in the department head meeting today. It was discussed having the Police, along with the Building Inspector; attempt to identify the ones that may be hazardous. Notices would then be sent out to the party with the hazard giving them a courtesy notice and time to make the repairs to the sidewalk. This especially needs to be done in the commercial district. The City may have these areas shaved down and then send the bill to the property owner.

Land Use and Planning – New Building Inspector Mayor Scanlin introduced Toby Rhoades who has been hired as the Building Inspector. Toby has been with the City for about three years in the Public Works Department.

Resolution No. 3263 - Separate Building Department Fund from General Fund

RESOLUTION NO. 3263
RED LODGE CITY COUNCIL

A Resolution by the City Council of the City of Red Lodge to create a separate fund outside of the ‘General Fund’ for the Building Code Enforcement program.

WHEREAS: The Red Lodge City Council is desirous of operating and maintaining a financially self sufficient Building Code Enforcement program within the City of Red Lodge; AND

WHEREAS: The Red Lodge City Council is interested in streamlining our budget, accounting, reporting and auditing systems for the City of Red Lodge; AND

WHEREAS: The Red Lodge Building Code Enforcement program has grown beyond the ability to easily manage these restricted funds within the General Fund; AND

WHEREAS: The State of Montana Budget Accounting and Reporting System incorporates an approved fund number (2394) for the administration of Building Code Enforcement funds:

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Red Lodge, Montana to adopt Resolution Number 3263, which formally creates and authorizes the use of fund number 2394 by the Red Lodge Building Code Enforcement. Further, this fund number shall be used in Fiscal Year 2009 and until such time as the City Council resolves to either terminate participation in the Building Code program or a future Council no longer deems it necessary to maintain a separate accounting fund for the Building Code Enforcement program.

BE IT FURTHER RESOLVED, by the City Council of the City of Red Lodge, Montana, that the Mayor is authorized to move all cash, liabilities and assets associated with the Building Code Enforcement program from the General Fund to Fund 2394.

Motion by Mahan, second by Lockman to approve Resolution No. 3263 as presented. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Create Restricted Cash Account – Planning Department Sanderson said the purpose of this restricted cash account is to give the City the option of saving money through numerous fiscal years to do bigger projects in the planning department. The funds could be used as local match for planning grants or to fund the hiring of a consultant to prepare updates to the growth policy, subdivision regulations and zoning ordinances. Sanderson said the City may impose “Planning Fees” as provided by 76-1-410 MCA. These fees are to be used to further planning efforts within the jurisdiction of a duly adopted growth policy. The limit on the fees is \$50 for a residential lot or unit and \$250 for commercial or other types of lots or units. These fees would go into the restricted cash account.

The Land Use Committee feels this is an excellent idea. Mahan said she feels Sanderson should put this into a formal resolution and bring it back to the Council at the next meeting.

Public Works – Update 2007 Waterline Rehabilitation Project and Highway 212 North Phase 2 Project Andrew Mattie told the Council that both projects are winding down. A walk through will be done to see anything that is left to be finished. Mattie said the line down Highway 212 has been

chlorinated, tested and is now useable. Mattie said the transmission line that goes north out of town has about 500 feet left to connect the 16-inch line to the line at the tank. The tank has been filled and is in the leak test mode right now. The contractor is addressing a few leaks that have been found. Most of the paving has been done and some extra paving may be done to repair the roads and make them more drivable.

Work Change Directive #2-Schedule 3-Water Tank and Work Change Directive #3-Schedule 1-Meier Work change directive #2-schedule 3 is to provide labor, equipment and materials to connect existing 8-inch over flow and 10-inch filter to waste drain line into the new tanks to drain line manholes and outflow. This makes the ability to get around the tank easier. Work change directive #3-schedule 1 is a unique circumstance as the City will need to approach USDA to have them fund this issue. The City will be drilling a well for Pius Meier as he is the recipient of free water from the City based on easements dated from 1922. Part of the agreement is to drill a well, make it operational, amend his DEQ approval and Meier then will forego free water for life.

CITIZEN REPORT Beth Hutchinson told the Council that she and Lockman spent five hours today in Cody working with the Steering Committee of the Beartooth Highway. She said it was a very good experience. They were discussing what route needs to be taken with the Highway. The chief obstacle is funding.

Hutchinson said she hopes the Council will address the issues brought up by the union for job descriptions and other issues being raised.

Norm Mance told the Council he feels they need to do something about recycling. He is in a program that has been paying him for the pickup of cardboard. He would like to see the City hire him for a permanent position in the recycling division. Mance is very concerned with how recycling is handled and feels strongly that it needs to be done. Mance will meet with the Public Works Committee at their next meeting.

OLD BUSINESS Sanderson told the Council that 900 of the 1247 bear resistant containers have been placed in Red Lodge. He said that hopefully all containers will be placed by September 23rd.

Kennicott asked about the audit findings for the FY 06-07 audit. She asked if the answers have been made and was told by the Clerk that this has been done and given to the State. The audit will be given to the Council members to review.

Mayor Scanlin said she has received the report from the Chief of Police on the crash of the police vehicle during the pursuit into Stillwater County. The crash was found to be the result of excessive speed. The Mayor asked the Chief to make sure the patrolman driving has additional training. He will also receive a written reprimand and a one-year extension to his probationary status.

NEW BUSINESS None

CORRESPONDENCE None

MISCELLANEOUS Mayor Scanlin said she had Sam Painter look into political signs. The rules on political signs in the codes speak to the time frame they can be put up. Due to absentee voting before the election the Mayor said that any political signs could go up at any point now as long as they are not in a public right-of-way.

Meeting adjourned at 9:20 p.m.

Mayor

ATTEST:

City Clerk