

April 26, 2016

Background Information

Update of Four Agreements/Memorandum of Understanding (MOU) Between the City and User/Maintenance Groups

The City has agreements/MOUs with four organizations for the use and/or maintenance of various City parks. These include:

- Red Lodge Lions Club, Lions Park, April 1993
- Rotary Club of Red Lodge, Rotary Park, June 2005
- Red Lodge Ice, Lions Park, January 2010
- Beartooth Recreational Trails Association (BRTA), City trails, November 2010

In general, (1) the provisions of the older agreements, particularly regarding responsibilities for equipment and insurance, are inconsistent with those of the newer agreements, (2) the responsibilities of the City and the organizations have changed over time and (3) all agreements have expired with the exception of the Rotary Club agreement that automatically renewed after a period of five years.

The Council Public Works Committee, with the assistance of the Community Development Director, commenced a process in September 2015 with the four organizations for update of the MOUs. All four organizations have preliminarily agreed on the provisions of their respective MOU.

The primary contacts for each organization in development of the updated MOUs include:

- Lions Club: Board of Directors, Susan Foisy, President
- Rotary Club: Wally Tate
- Red Lodge Ice: Al Bloomer, Andy Simpson
- BRTA: Board of Directors, Grant Barnard, President

The primary issues that have been addressed for each MOU include:

1. Responsibilities of the organization to include, dependent upon MOU, maintenance activities, physical improvements, inventory of equipment owned by the City and the organization, storage requirements and indemnification for contents, and financial obligations.
2. Responsibilities of the City to include, dependent upon MOU, storage, liability coverage for volunteers, funding for improvements, maintenance activities and maintenance equipment.

3. Legal advice from the City's consulting attorney was obtained, particularly concerning personal property insurance, indemnification and liability coverage. Given the limited resources of the organizations to cover their equipment and property, the attorney recommended that the risk of loss be placed on the organization through an indemnification clause. In addition, he recommended that the City's inventory of equipment owned by the City and used by the organizations be updated and included in the City's existing property policy. He also recommended that the warming hut at Lions Park not be left open for 24-hours and finally recommended that the Montana Municipal Interlocal Authority be contacted for guidance on liability coverage for volunteers.
4. MMIA recommended the following provision: Maintain liability coverage through the Montana Municipal Interlocal Authority in order that the volunteers for the organization are a Covered Party consistent with Section 5.2.3 of the MMIA Memorandum of Liability, July 1, 2015 or subsequently updated, in that Covered Party is defined as "All persons who perform a service on a volunteer basis for a Member Entity" (City of Red Lodge) "provided such performance is under the direction and control" (MOU) "of the Member Entity". An option exists for worker's compensation coverage for volunteers that can be purchased subject to documentation of volunteers' names, social security number and notification to MMIA of each event
5. The standard provisions for each MOUs are consistent stating, among other provisions, the term (in years) of the MOU, provisions for modification, resolution of disputes according to Montana Code and termination of previous agreements/MOUs.

New MOUs are being drafted for execution with organizations for which no agreement has previously existed. These currently include multiple user groups at Coal Miner's Park, the Dog Park and possibly others such as the Skate Park. The provisions for these MOUs will be simplified given these organizations are much less organized administratively than the four organizations for which MOUs have been updated.