

August 12, 2014

The Red Lodge City Council met in regular session on August 12, 2014 at 7:00 p.m. The meeting was called to order by Mayor Williams followed by the Pledge of Allegiance to the Flag.

ROLL CALL OF OFFICERS Present: Mayor Williams, Aldermen Foisy, Mahan, Larson, Labrie, Schoenike, and Brown.

DEPARTMENT HEAD ATTENDANCE: Community Development Director – Forrest Sanderson, City Clerk – Debbie Tomicich, Interim City Clerk- Loni Hanson, Public Works – Jim Bushnell and Police Chief – Steve Hibler.

MINUTES OF JULY 22 Motion by Mahan, second by Labrie to approve the minutes of July 22 minutes as submitted. On roll call vote all Aldermen present voted “Aye.” Motion carried.

CLAIMS AGAINST THE CITY Motion by Labrie, second by Brown that claims against the City totaling \$361,804.67, 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.

Labrie pointed out a few of the claims that were approved that are of interest. \$32,202.00 was submitted from Normont Equipment for the remaining balance due for the durapatcher. A payment was made to Industrial Automation for \$32,920.00 for the telemetry unit that is being purchased. \$11,224.00 from Red Rooster Ranch Spraying for spraying, \$7,000 came from the Parks Board budget and the remaining \$3,124 came out of sewer. \$50.00 from MEDA for Bill Foisy’s training.

Planning Board Presentation Mayor Williams presented the Planning Board members with Community Service Certificates. He thanked them all for their long hours and hard work.

OFFICERS REPORTS The officer’s reports were presented to the Council for their review.

COMMENTS FROM PUBLIC REGARDING MATTERS WITHIN CITY JURISDICTION THAT ARE NOT ON THE AGENDA None

STANDING COMMITTEES:

Land Use and Planning- Ordinance #908-2014 Zoning Regulations Sanderson stated that on behalf of the Planning Board, it was his pleasure to deliver to the council the Planning Board recommendations and report ZC-14-01 for the 2014 Red Lodge Zoning Regulations. He stated that there are 12 points that are addressed in the recommendations and all required findings are favorable leading to the adoption of the 2014 Zoning Regulations. Sanderson included in the Council’s packet a list of the major changes from the 2010 Zoning Regulations to the 2014 Zoning Regulations. Also included in the council packets are the minutes from the public

hearing, but only half of the minutes are there, due to a copying mistake, but the CD of the meeting is available for listening. He stated that he needed to make some amendments to clean up errors that were contained in the report. Sanderson asked the council if there would be any objections to him passing on the Planning Board recommendation ZC-14-01 or is the summary of the findings sufficient for this point. The council had no problems. The Planning Board's recommendations comes in two parts. The first part is that the Council has to adopt the staff report of the Planning Board report ZC-14-01 as findings of fact. That report sets the rational nexus for adoption of zoning subject to a series of amendments. The first change is to move the last sentence in section 4.5.44(d) to section 4.5.44(c). The second change is a Planning Board change following their public hearing, and it was to allow for alcohol as a secondary use for onsite consumption as part of a restaurant. It needs to be moved from table 4.3.112 to table 4.3.102. The next change is table 4.3.142, to change the current language which states "multi-family larger than two" and have it say "multi-family larger than or equal to two". In the Outdoor Advertising section 4.6, the heading in 4.6.36 needs to be changed to "Religious Symbols, Non-Commercial and Political Signs." In section 4.6.51 Secondary and Tertiary Use sign packages are subject to Design Review, add reminder to C-1, C-3-N, C-3-S and C-4. The following changes to Zoning Map #8.0 include adding Beartooth Lane; zoning on the Civic Center from P-1 to P-2; zoning on the County Annex building from P-1 to C-4; park land part of RLCCE on the bench/path from C-3-N to P-1; Old Billings Clinic from C-4 to P-1.

Sanderson wanted to address the parking requirements issues that were brought up at the public hearing. The issue was the excessive amount of parking requirements in certain areas. Sanderson stated that the number one complaint that is brought up every week by the business community is parking. The Planning Board made changes to soften some of the tourist driven numbers for required parking. Those changes in the design review, Standards of General Applicability, section 4.5, parking garages are now allowed uses, shared parking between dissimilar uses is now something that can be contemplated and offsite parking can be used to meet the minimum parking requirements. To deal with the impacts of the size of the lots, the Planning Board modified the landscaping, vegetation and buffering. Sanderson gave an example of a Bozeman ordinance having the least aggressive parking standards in the state, for commercial retail Bozeman uses 3.3 per 1000, Kalispell uses 4 per 1000, Yellowstone County uses 5 per 1000 and Red Lodge uses 5 per 1000. Sanderson stated that if you dig deeper into the issue, it is not just the parking spaces but the moving lanes, the travel ways, and the aisles. If you look at the Red Lodge standards, we design our spaces on a 9x18. The moving aisles, which go by the overall size of the parking lot, Red Lodge uses on a one way 45 degree angle park is reduced to 12ft, every other community is 15, 16, and 18ft. On two way 90 degree angle parking, Red Lodge requires a 24ft aisle, the other communities range from 24ft and 28ft. The net affect of the reduced number of spaces, longer spaces and wider moving lanes of a parking lot whether it be 4 per 1000 or 5 per 1000 as we use, parking lots end up being approximately the same size. The Red Lodge Standards, when we commissioned the 2010 zoning, were drawn from a professional consultant tourist based communities. We took the smaller vehicles, the

reduced moving lanes, but we went to a larger number of spaces because in a resort tourist driven economy, parking is always at a premium.

The other item that was called out was the Trade School. Sanderson gave an example of the Flathead Valley Community College in Kalispell not being able to find a parking space while classes were in session. Another example Sanderson gave was of Montana State University 30 years ago having more parking spaces than there were ever in the core of the campus. If you didn't have an 8:00 morning class and didn't get there by 7:30, you would have to park at Bobcat Stadium and you would have to walk two miles to get on campus.

Sanderson stated that the Planning Board had made some concessions on parking, it is not that the Board did not hear the issue, but radically changed and reduced the required parking given the other concessions, in terms of aisles, space sizes to reduce the parking and then to provide for parking garages and shared parking for dissimilar uses and offsite parking to meet the overall requirement, we might take too big of a step at this point in time. Sanderson strongly discouraged the council from considering further reductions in the initial adoption of the 2014 Zoning Regulations.

Sanderson talked about the permit issuing authority. When the 2010 Zoning Regulations were adopted it hadn't been long before the City Council disbanded the Board of Adjustments and took on the duties as the Board of Adjustments. In 2010 the Planning Board recommended to the council to give them the initial permit issuing authority and that the Council and Mayor would serve as the Board of Adjustments in an independent quasi-judicial manner. The Planning Board again comes to the council and says that they have four years of experience in dealing with conditional use permits and design review. They have had design review authority since 2010. They have recommended to the Council for four years on all conditional uses, and with the exception of one application, being Town Pump, the Council has not modified any condition of approval on any project that has run through that process. Sanderson stated to have the Council give the Planning Board the permit issuing authority and insulate the Council as an appellate body to where they are not making a decision on what they have already made. Sanderson said as the Zoning Administrator, it provides clear separation of powers, the Zoning Administrator clearly will have his powers, the Planning Board will have theirs and the Council as the Board of Adjustments will be the final arbitrator and will meet out state law quotes of substantial justice. That is the role of the Board of Adjustments, unless the Council wants to be a Board of Adjustments that severs the permit authority from the Planning Board, so that they are not hearing the issue at all, the Board of Adjustments issues all the conditional use permits and your appeal is to a court of record. Jurisdictions work that way, but Sanderson does not recommend that. He would like to see the Planning Board, with their track record, deal with it.

Sandy Conlee, planning board member, wanted to thank Susan Foisy for all of her hard work and research she did regarding parking. She stated that the Planning Board really listened to her worries and concerns and that they had to realize that Red Lodge isn't just for the residents of

Red Lodge, but it is also for the tourist industry. She said that we have such extremes that we have to make adjustments, that way we can't just follow some standards from somewhere else. She said that it has worked so far for the ones that we have required a certain number of parking spaces. Sandy brought up that some businesses are supposed to have places to put snow or sheds, but end up putting it in parking spaces and then you lose those parking spaces. She said that the Planning Board feels very comfortable with the parking numbers that they did come up with.

Motion by Schoenike, second by Mahan to approve the Planning Board Report ZC-14-01 as Findings of Fact. On roll call vote those in favor; Aldermen Mahan, Larson, Labrie, Schoenike, and Brown. Those opposed; Alderman Foisy. Motion Carried

Motion by Alderman Foisy to postpone this motion until August 26, so that the Council Land Use committee can read the recommendations from the public hearing and report back to the council. No second, motion failed.

Sanderson wanted to point out to the Council that this was a unanimous recommendation from the Planning Board, this council has never received a unanimous recommendation and this is a first.

Foisy stated he respectfully disagreed on the rationale for not reducing the parking requirements. We are a tourist town, the census numbers are off the charts, and the tourists are staying downtown and walking also. He added that a developer came in with the Family Dollar Store and they wanted to put in 33 spaces as the minimum requirement, and we made them put in 44 spaces.

Schoenike appreciated what Foisy was saying, however, he is confident that the right decision was made by the Planning Board in terms of the substantial changes and in terms of their approach to parking. Reality is that the projects that have been approved under the standards for the past four years were not over parked. Schoenike felt that is why he did not see the need to go back and reconsider.

Mahan wanted to bring up the comment that Sandy Conlee made about the snow storage and how that brings up a huge decision on parking. Mahan said that we had received 200 inches this past winter and we may not get that next winter, but the winter after that we may get 400 inches. She stated that snow needs to be taken into consideration when determining parking spaces.

Foisy said that the census numbers for Red Lodge being off the chart high for walking and bicycling and those are not seasonal numbers that is the main method of getting around.

Motion by Schoenike, second by Mahan to adopt the proposed 2014 Zoning Regulations and official Zoning Map #8 on 1st Reading with the following amendments recommended by Land

Use and Planning Committee. On roll call vote those in favor: Aldermen Mahan, Larson, Labrie, Schoenike, and Brown. Those opposed; Alderman Foisy. Motion carried.

Amendments:

1. Include all changes recommended by staff.
2. Adjust official Zoning Map #8 to show all dedicated parks as P-1P.
3. Adjust official Zoning Map #8 to show lands designated for airport operations as P-1A.
4. Change Conditional Use in C-1 (previously placed in C-2 by accident) from onsite consumption of alcohol as a secondary use at a restaurant to onsite consumption of beer and wine as a secondary use at a restaurant.
5. Replace language in various places including 4.3.114 H on page 19 to read: “Non-Residential Uses over 2,000 Square Feet – permitted commercial uses and all conditional uses that propose to construct or expand in such a way that the square footage of gross floor area increases beyond any multiple of 2000 square feet are required to comply with section 4.4.10 Conditional Uses and obtain a conditional use permit and section 4.5 Standard of General Applicability.

Schoenike wanted to address the adjustments the committee is recommending. On the two adjustments to the Zoning map indicating parks as P-1P and airport operations area as P-1A are clarifications on the map to make it clearer where are our publicly owned lands that are already dedicated to a specific use and make it a little more useable.

The change in the conditional use onsite consumption of alcohol to just onsite consumption of beer and wine is consistent with the spirit of the discussion that the Planning Board had. The discussion was about being able to have beer and/or wine with that type of license at those restaurants in those neighborhoods. It is also consistent with the nature of those neighborhoods with beer and wine rather than a full liquor bar.

The change in the Non-Residential Uses over 2000sq ft. speaks to the Planning Board coming up with new language to better address the concern that they wanted to be able to review and litigate potential impacts of large developments, whether it is a new development that is going to be larger than 2000 sq. ft. or an existing development that is going to have a substantial increase in size. The Planning Board feels that the proposed change achieves that.

Dedication of the Bob Moran Memorial Garden Motion by Labrie, Second by Schoenike to dedicate the east side of City Hall for the Bob Moran Memorial Garden with the condition that the sign must be located at a maximum of one foot from the wall. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Sanderson reminded the Council that a grant was awarded to beautify the east side of City Hall and that the work has been completed and the entities that did the work would like to dedicate that area as the Bob Moran Memorial Garden, with a simple sign showing a book. Bob Moran

was the City Librarian for a long time. The only request from Public Works was to have the sign easily removable or located one foot from the wall, so that it is not ruined when snow is stockpiled there in the winter.

Mahan commented on what a wonderful idea it was.

Administration- SID creation- Country Club Estates Sanderson reported that the delinquency rate at the Country Club Estates is 6 out of 651 owners. The default rate of less than 1%. We now know we have a very valuable district in the neighborhood of 20 million dollars with improvements and a low delinquency rate. All we need at this point is the value of the raw land from the State of Montana so we can start talking about assessment methodology. If the council decides to move forward, Sanderson submits that they would have a viable SID in terms of value and delinquency rates.

Approve Code Codification Contract, Quality Code Motion by Labrie, Second by Foisy to approve a Code Codification contract with Quality Code Publishing using the supplemental quarterly updates. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Labrie stated that Quality Code Publishing was chosen by Schoenike, Mahan and Sanderson because of their most efficient time frame they could provide to the City. Mahan commented on how she has gone through this before with Debbie and did hours of work and it virtually went nowhere, so she was glad to see a professional group come in and do this.

Sanderson said that Quality Code Publishing was not the cheapest of the proposals. The cheapest proposals were going to take the longest at 12 and 14 months to get the work done. One of the criteria that we evaluated on was timeliness. One of the council’s stated priorities was to enhance our public outreach and make information available.

Mayor Williams said that the nice part of this is that anyone can go online and search the records and get pertinent information as needed.

Foisy stated that the Montana Municipal Association recommends doing it every five years and ours will be done quarterly.

Resolution #3371, 2013 Broadway Water Rehab Project, Water/Sewer Enterprise Funds Loan Agreement

RESOLUTION NO. 3371

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA, AUTHORIZING AN INTERFUND LOAN PAYMENT AGREEMENT FOR THE 2013 BROADWAY WATER REHAB PROJECT. The City may make accelerated payments without incurring any penalties.

BE IT RESOLVED by the Red Lodge City Council that:

The portion of the project completed with a loan from the Sewer Fund shall be paid for by an interfund loan from the Water Fund to the Sewer Fund in the amount of \$534,172.71. The loan shall be repaid according to the terms below as stipulated in Exhibit A, by monthly appropriations from the Water Fund of the City of Red Lodge.

Term: Twenty (20) years

Interest: 2%

Payment Date: 24th of each month

Total Cost: \$648,549.77

Motion by Labrie, Second by Larson to approve Resolution #3371, 2013 Broadway Water Rehab Project, Water/Sewer Enterprise Funds Loan Agreement. On roll call vote all Aldermen present voted "Aye." Motion carried.

Labrie pointed out that this was an inter-fund loan to be repaid from the water department to the sewer fund for the water project that was done last summer.

Union Contracts- Labrie reported that they have reached tentative agreements with both Union contracts and they are being sent off for signatures and hopefully will have them at a council meeting in the near future. The committee is working on an Alcohol and Drug free policy to put into place and are working on the employee manual.

Budget Hearing on September 2 at 5:00 p.m. Mayor Williams wanted to encourage the public to attend.

Emergency Services- Dispatch Agreement with Carbon County Motion by Larson Second by Mahan to approve the Dispatch agreement with Carbon County. On roll call vote all Aldermen present voted "Aye." Motion carried.

Larson said that this agreement is for Carbon County doing the dispatch service for our police department, fire and ambulance.

Public Works- MOU Community Foundation, Pool Endowment Schoenike said they are still working on establishing a memorandum of understanding with the Red Lodge Area Community Foundation to set up the structure to build an endowment to help support the operation and maintenance of our pool facility as it exists now and as we move into the future. They have gotten comments from the City Attorney for some adjustments but have not had the opportunity to talk with Tracy from the Community Foundation about them. They are making progress. There are already people interested in making donations to such an endowment.

Mayor Williams said that it is a very important thing to accomplish due to the fact that our pool is costing over \$800 a day to operate. He said that it is a needed facility in our community but is a very expensive undertaking. Our pool is old and there are number of repair issues that will have to be addressed in the coming year. He stated that the endowment would be a very meaningful contribution to our community.

Sidewalk Snow Removal Ordinance Foisy said the committee has been tasked with updating the sidewalk snow removal ordinances #875 and #896. He said that we have obligations with the State on plowing sidewalks. We have to reaffirm the obligations of the residential community on clearing sidewalks and the obligations in the commercial district.

Schoenike said that he would try to get a first draft available for the next council meeting.

Mayor Williams stated that there is a line item in our upcoming budget of \$25,000 for a piece of equipment to help in the removing of the snow on the sidewalks, which is the City's responsibility. MDT has committed \$20,000 towards this equipment.

Other topics for Public Works: Foisy stated that the committee was still working on a resolution for the fees for the pool.

There is a public hearing on the draft Comprehensive Parks Plan on August 20.

They are still negotiating with the State on the block grant application for a preliminary engineering report for the waste water plant. The State would like us to close out the CBDG portion of the Capital Improvements Plan, so that we do not have two funding sources and Sanderson is working on that.

They are working on updating the ordinance to allow polyethylene and PVC utility pipe for water connections.

Bushnell said that the fall cleanup will be September 19 and 20 at the Recycling Center.

Bushnell stated that phase one of the new water system telemetry project is 90% installed and is up and running. He showed the Council the new iPad that the water operators will use, which shows the entire water system components and how the operators can keep track of water use and what is running. He said it is going to be a time saving piece of equipment. He said they are looking into the next phase to include the waste water treatment plant. When phase one is 100% complete, the crew will go through a four hour training course on all of the equipment.

Correspondence Sanderson wanted to strongly encourage the Council to read the letter from the Utah Association of Counties to the EPA. He said in the letter the EPA isn't telling us the truth on the new rules. The new rules, in plain language, call out that the EPA is seeking to assert jurisdiction across all waters of the United States.

Miscellaneous The Parks Board is having a public meeting tomorrow, Wednesday. Schoenike stated that he would not be at the September 23 council meeting.

Meeting adjourned at 8:06 p.m.

Mayor

ATTEST:

City Clerk