

June 24, 2014

The Red Lodge City Council met in regular session on June 24, 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. Absent: None.

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

**MINUTES OF JUNE 10** Motion by Mahan, second by Labrie to approve the minutes of June 10 as submitted. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**CLAIMS AGAINST THE CITY** Motion by Labrie, second by Larson that claims against the City totaling \$69,307.89, 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 that claims were paid at both the June meetings as it is fiscal year end. The amount paid out was much less as claims were already paid once this month. Red Lodge Glass was paid \$7,400 for painting and for a door at the library. Coban was paid \$8,085 for eight police body cameras that were purchased. The police also purchased \$3,707 worth of ammo.

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

**SPECIAL COMMITTEES 1. DEQ Mine Subsidence Study – Pioneer Engineering** In attendance at the meeting was Bill Snoddy, Project Manager from DEQ Abandoned Mines Land Program and Tim Ranf, Project Manager from Pioneer Technical Services. Mr. Snoddy said that DEQ has received inquiries for a number of years regarding subsidences in Red Lodge relating to the historic mining in town. The work being currently done has been ongoing since January of 2014. They have been surveying and monitoring three residences, those being 501 South Broadway, 505 South Platt and 404 South Broadway. An additional house has been added to this list which is located at 207 South Hauser. The monitoring has been done quarterly to determine if active settlement is occurring and the next event is scheduled for July. No settlement has been measured to date.

The objective is to determine whether historic underground coal mines have any potential for causing or have caused ground subsidence. This is being done in response to concerns from several citizens. Based on previous investigations and historic mine maps, the mine workings are very deep, 250 to 900 feet below the ground surface in the area. The outcome from the drilling investigation and survey monitoring will be used to determine whether or not ground subsidence has or could occur as a result of collapsing underground mine workings.

Mr. Ranf said the requests for bids for a drilling contractor have currently gone out. The drillers will be selected by July 1. Drilling is scheduled to start by August 4. The drilling activities will be 8:00 a.m. to 6:00 p.m. Monday – Saturday. He said they may possibly have two drill rigs operating simultaneously for a couple of weeks. The drilling is scheduled to be completed by September 26 with a final report being submitted to the City by December 22.

**Police Chief – Steve Hibler** Mayor Williams introduced Steve Hibler the new Police Chief to Red Lodge. The Mayor thanked Assistant Chief Scott Cope for the outstanding work he did in the interim between Chiefs. The Mayor said it was very much appreciated.

**2. Report from Various Committees** Brown said the Library Board is planning a meeting for mid- July. She said she attended her first TBID Committee meeting last week and was very impressed with the work being done. She said a lot of work is being done with the TBID funds to promote the lodging industry and Red Lodge. Brown said a major decision was made at this meeting to create a reserve fund with a start-up of \$5,000 to hopefully be used for a convention center in Red Lodge.

Schoenike said the Economic Development Corporation met and they are questioning their own viability. They are looking at the fact that they have been back in existence for the last eighteen months and have been unable to produce much in terms of deliverables. Schoenike said there will be a re-evaluation of what the group could potentially or realistically hope to accomplish. They will also discuss what should be done with the funds in their bank account. Schoenike expressed to them that there are several people with the City who believe those funds should come to the City in light of the losses the City took signing on the loan for the Cooper Lots. This is being considered.

Labrie said she attended the first Cemetery Board meeting that was held. She said it was a good meeting with the draft by-laws being put into place. A chair and vice-chair were elected. The meeting dates have been set for the second Tuesday of April, July and October with other meeting dates being set when they are needed.

Mayor Williams said the Beartooth Highway has received a National Register listing which is very favorable for our community. This was announced at the Red Lodge Merchants and Lodging meeting.

Larson reported on the Proud and Beautiful Committee which is responsible for flower baskets on Broadway, some responsibility for fireworks and the Christmas Stroll. He said the flower baskets are up and again this year very beautiful but the committee did not receive quite enough funds to pay for the flowers so if anyone would like to donate this would be very much appreciated. They are also working on getting funds together for the fireworks display. Mahan said about \$2,000 is still needed for this display.

Larson said the first meeting of the Red Lodge Rural Fire District Oversight Committee was held. This committee was formed with one member of the Ambulance District, one from the City and one from the Rural Fire District to oversee the new firefighting capabilities. There will be a lot of things that will need to be discussed and set up for this new system. The committee will meet the second Wednesday of each month and the meetings are open to the public.

Mahan said the Chamber of Commerce has received grants so they will be able to be open seven days a week. Training is set as they also have volunteers to man the Chamber.

Foisy said the Parks Board is still reviewing the draft Comprehensive Parks Plan but he feels they are close to being able to set a date for the public hearing. Foisy also said the Parks Board has spent \$65,000 out of the \$82,000 that was budgeted this year. They still have two outstanding bills, one for woodchips and one for the refurbishing of the metal trash containers in the parks. Weed spraying has been done and Foisy asked that when spraying is done the Board requests that a sign be put up so the public will know.

Foisy said the Parks Board will be doing an assessment of the Dog Park as it is currently on an interim status and the Board will then make a recommendation to the Council as to whether the park should be made a permanent one.

Fosiy also said the Parks Board will be coming forward to the Council soon, with a resolution to name all public parkland that is not currently named.

The trails association has received an encroachment permit from the MDT to do bicycle parking on Broadway in the downtown area. This parking will be cropping up but out of the way.

Foisy said a discussion was held at the Chamber regarding the economic impact of the Beartooth Highway that was documented by the Institute for Tourism and Recreation Research. The Chamber announced that this same group would be doing another economic assessment for the July 4<sup>th</sup> Rodeo and the Beartooth Rally this year. This will definitely be very interesting information to receive.

**STANDING COMMITTEES – ADMINISTRATION – SID Creation – Country Club Estates** Mayor Williams said an extensive meeting was held on June 19<sup>th</sup> with the City’s bond counsel and his decision, after this meeting, was to delay the SID since it appears to be difficult to accomplish all the necessary tasks and have the improvements finished before the potential cold weather. There are additional concerns that need to be discussed and understood before anything occurs. In this discussion that was held it was pointed out that though this will be a Special Improvement District, the City’s credit rating stands behind this district. If for any reason the people in the district were to say they were not paying, the City funds would become liable for retiring this debt. The Bond Counsel stressed that the City get proposed district boundary maps out so everyone will know the boundary. The request to the Carbon County Treasurer is to give the City a percentage of delinquencies for those people who are in arrears on their taxes. The next component that the Treasurer will provide is those who pay taxes late and then pay the penalties. These two components will be crucial in the assigned assessments because it will affect the interest rates. Sanderson said the preliminary report given to the City from the State speaks to about 850 tax assessments in the district. This includes the individual condominiums. He said this number will come down significantly. Mayor Williams said the Public Works Department is committed to repairing cracks in the street at Country Club Estates as best as can be done with the durapatcher to help assure getting through another winter.

**Use of City Owned Land – DSVS Zumbathon – East 8<sup>th</sup> Street** Motion by Labrie, second by Brown to approve the use of City owned land for DSVS for their annual Zumbathon on the east side of 8<sup>th</sup> Street from Broadway to the alley. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Labrie said this event will be held on July 11<sup>th</sup> from 5:30 to 7:30 p.m.

**Use of City Owned Land – RLACF Fun Run – Lions Park and Streets** Motion by Labrie, second by Larson to approve the use of City owned land at Lions Park for the Red Lodge Area Community Foundation’s annual Fun Run. On roll call vote all Aldermen present voted “Aye.” Motion carried.

This is the 11<sup>th</sup> annual Fun Rn for Charities and the event has grown each year. It was said that there are sixty-six charities involved this year and this does include the Double Ditch Dog Park and Red Lodge Proud and Beautiful. There should be approximately 1,300 participates and spectators for this event. MDT will work with the City for this event.

**Police Commission Appointment** Mayor Williams told the Council that he is looking for their concurrence on the appointment of Lee Eichelberger to the Police Commission.

Motion by Larson, second by Brown to approve the appointment of Lee Eichelberger to the Police Commission. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Mayor Williams said the Police Commission basically examines any potential new police hire to make sure they qualify per Montana Code. Schoenike said there will be one more appointment that will need to be made to this board.

**Library Board Appointment** Mayor Williams said that Jack Exley has requested to be re-appointed to the Library Board for one more term. He asked the Council for their concurrence with this appointment.

Motion by Larson, second by Schoenike to approve the re-appointment of Jack Exley to the Library Board. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**Red Lodge Rural Fire District Oversight Committee Appointment** Mayor Williams would like to appoint Bill Larson to represent the City on the Red Lodge Rural Fire District Oversight Committee.

Motion by Schoenike, second by Brown to approve the appointment of Bill Larson as the City representative on the Red Lodge Rural Fire District Oversight Committee. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**Union Contracts** Labrie said the Public Works and the Police Union Contracts are still being negotiated so an extension will need to be made on both contracts. The City will be requesting a thirty day extension on the two contracts with the approval of the union members.

Motion by Schoenike, second by Labrie to extend the current Public Works and Police Union Contract for thirty days so the contracts can be completed. On roll call vote all Aldermen present voted “Aye.” Motion carried.

**EMERGENCY SERVICES** Larson said the Emergency Services Committee is visiting with the new Chief on some of the issues that have been discussed so he can be a part of the discussion.

Mahan said the Home of Champions Rodeo Parade Committee purchased 40 new cones to be used on the street this year.

**LAND USE AND PLANNING – Conditional Use Permit – Red Lodge Senior Center** Sanderson said the matter before the Council this evening is a Conditional Use Permit specifically to allow for a 3,200 square foot expansion in the commercial building of the Senior Citizen Center located in the C-4 zoning. The property is described as Red Lodge 2<sup>nd</sup> Amended, Section 27, Township 07S, Range 20E, Lots 1-7 and 16-18 Block 24, P.M.M. Carbon County, Montana. The property is located on the west side of Word Avenue directly south of 13<sup>th</sup> Street. The physical address of the property per the application is 207 South Word Avenue. The property size is 42,234 square feet.

The decision maker on the request is the Red Lodge City Council for the Conditional Use Permits and the Planning Board and Zoning Commission for the Design Component.

Notice was given per code rules. The Planning Board/Zoning Commission held a public hearing on the request on June 11, 2014. The City Council public hearing is scheduled for this meeting of June 24, 2014.

Mayor Williams asked the Council if any member had any exparte communication to disclose. He was told no. He asked if any member felt they should recuse themselves from participation in the public hearing. He was told no.

Sanderson said the standard of review is a concurring vote of four/six of the Council. The Mayor only votes in the event of a tie. The authority for the action by the City Council is found in the Red Lodge Zoning Regulations, specifically the table assigning authorities to the various entities and individuals with the power under Montana law and the Red Lodge Zoning Regulations to take actions on behalf of the City.

Mayor Williams asked if the hearing had been properly noticed and he was told yes it had been in compliance with the Zoning Regulations.

Susan Hovde was hired by the Senior Center to be the architect on the project. She said the Center is desirous of expanding the thrift shop and to add on to accommodate all the donations they have been given. They will be expanding to the south covering a grassy area and coming within ten feet of the property line. The parking will not be added to nor diminished. They will try to keep the building as similar as possible in the products used for the addition. Hovde said there are some drainage issues on the property that will be cleaned up.

Sanderson presented staff report RLDR-14-2 and RLCU-14-2 as the Planning Board recommendation. Sanderson said the following criteria must be addressed for all conditional uses (Section 4.4.10 Red Lodge Zoning Regulations):

- A. Consistent with Growth Policy. The conditional use is consistent with the policies, goals, objectives and strategies of the Red Lodge Growth Policy. There were four findings supporting five conclusions that the project proposal to add 3,200 square feet to an existing building in the C-4 District property meets the requirements of this review criterion.
- B. Compatibility. The Conditional Use is compatible with the character of the immediate vicinity including the bulk, scale and general appearance of the neighboring buildings and uses. There were four findings supporting three conclusions that the proposal to add 3,200 square feet to an existing building in the C-4 District property meets the requirements of this review criterion.
- C. Minimizes Adverse Impact. The design, development and operation of the Conditional Use minimize and mitigate adverse effects, including visual impact of the proposed use on adjacent lands. There were three findings supporting two conclusions that the proposal to add 3,200 square feet to an existing building in the C-4 District property meets the requirements of this review criterion.
- D. Minimized Adverse Environmental Impact. The development and operation of the proposed Conditional Use minimizes adverse environmental impacts. Environmental resources to be assessed included, but are not limited to wetlands, riparian areas, steep slopes, mature vegetation and the floodplain. There was one finding supporting two conclusions that the proposal to add 3,200 square feet to an existing building in the C-4 District property meets the requirements for this review criterion.
- E. Impact of Public Facilities and Services. The Conditional Use does not have a significant adverse impact on public facilities and services, including transportation systems, potable water and wastewater facilities, storm drainage, solid waste and recycling, parks, trails, sidewalks, schools, police, fire and EMT facilities. There were

three findings supporting one conclusion that the proposal to add 3,200 square feet to an existing building in the C-4 District property meets or exceeds the requirements of this review criterion.

F. Hazard, Nuisance. The proposed Conditional Use will not create a hazard to persons or property nor will it create a nuisance arising from, but not limited to: traffic, noise, smoke, odors, dust vibration or illumination. The necessary public services discussed in this review criterion either exist/are available on/to the property or can be readily extended to serve the proposed use. There were three findings supporting two conclusions that the proposal to add 3,200 square feet to an existing building in the C-4 District property meets the requirements of this review criterion.

G. Other Codes. The Conditional Use complies with all applicable City codes and ordinances. There was one finding supporting two conclusions that subject to the issuance of approvals via Fire and Building Permits, the proposal to add 3,200 square feet to an existing building in the C-4 District property meets or exceeds the requirements of this review criterion.

H. Run with the Land. An approved CUP shall run with the land and may be transferred to another owner. There were two findings supporting three conclusions that the proposal to add 3,200 square feet to an existing building in the C-4 District property meets or exceeds the requirements of this review criterion.

I. Expiration, Discontinuance or Abandonment. An approved CUP shall expire on the one (1) year anniversary date of approval if the permit is not put to use, unless an alternative timeline is established in the development approval. If a Conditional Use is operationally discontinued or abandoned for a period of more than twelve (12) consecutive months, regardless of the removal or non-removal of furniture/equipment or any intention to resume such activity in the future, the Conditional Use may not be reestablished or resumed. Any subsequent use of the site shall conform to this Ordinance. There was one finding supporting two conclusions that the proposal to add 3,200 square feet to an existing building in the C-4 District property meets or exceeds the requirements of this review criterion.

Sanderson said the Planning Board suggests and recommends the Council adopt their recommendations and the staff report RLDR-14-2 and RLCU-14-2 as the findings of fact. The Planning Board also recommends the Council approve the Conditional Use requested.

Schoenike said there was substantial discussion held at the Planning Board level on condition #7 and condition #8 that deal with the hard surface sidewalk that will be installed along 13<sup>th</sup> Street and that all lighting associated with the project will be installed at a 90 degree cut off, shielded and directed downward onto the structure or parking area.

Mayor Williams opened the public hearing. Leon Odegaard, 1517 Silver Circle, told the Council that he is on the Board of Directors of the Senior Citizen Center and stated that the thrift store section of the center has definitely gotten too small to accommodate the center. They are receiving more and more good items and definitely need more room. Odegaard said the funding is available to do this work. Brown asked how they would be funding the expansion and Odegaard said they have an endowment fund that they will be using.

Mayor Williams asked if any written comments were received on this matter before the Council. Sanderson said a letter of support was received from Leon Odegaard. Neither the applicant nor the City made any rebuttals on the matter. Mayor Williams closed the public hearing.

Motion by Schoenike, second by Brown to adopt Staff Report RLDR-14-2 and RLCU-14-2 as findings of fact. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Mayor Williams asked the applicant if they understand and accept the conditions as given and will they comply with such. The Mayor was told yes.

Motion by Schoenike, second by Labrie to approve the following Conditional Use Permit: to allow for the expansion of a Commercial Building (Red Lodge Senior Center) of 3,200 square feet in size on property that may be described as Red Lodge 2<sup>nd</sup> Amended Lots 1-7 and 16-18, Block 24, P.M.M. Carbon County, Montana, Section 27, Township 7S, Range 20E, subject to the fourteen conditions recommended by the Planning Board and delineated in the staff report. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Mayor Williams asked the applicant if they understand and accept the conditions as given and will they comply with such. The Mayor was told yes.

**2014 Zoning Regulations** Sanderson said the Planning Board has provided notice that they will have a public hearing on the Red Lodge Zoning Regulations on July 9, 2014. The Planning Board has been working diligently since the adoption of the 2014 Growth Policy to implement the document. Sanderson said it took months to arrive at what is hoped is a supported decision regarding gaming in the north corridor. There were a lot of issues that were worth consideration throughout this process. The Planning Board worked very hard on all topics and will be bringing forth a document for the Council to review and consider.

Sanderson recommended a start time of 5:00 p.m. for the public hearing to be held on August 12, 2014 on the Zoning Regulations. None of the Council members objected to this time frame. The document will be posted on line along with a hard copy being at City Hall for public review. Sanderson told the Council that it is alright to discuss the regulations with their constituents before the public hearing is held.

Schoenike said there were changes made in parking requirements as well as some opportunities for more creative parking in terms of off premise parking and cross parking easements. There are some changes called for by a great amount of people in terms of lifting the somewhat arbitrary cap on the square footage for commercial development it will be addressed through conditional use review so the size of the building can be addressed and mitigated properly without cutting off a good development because it has reached a certain size. There will also be a brand new commercial zone added.

**PUBLIC WORKS – Approve CDBG Planning Grant Application – PER Waste Water System** Motion by Schoenike, second by Mahan to approve the CDBG Grant application for a preliminary engineering report at the wastewater treatment facility including the allocation of \$10,000 as match funds for the grant out of the wastewater enterprise fund. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Schoenike said the pool endowment MOU will hopefully be ready by the end of July for Council review. Also discussion was held on raising pool fees next year.

**CITIZEN REPORT** Foisy introduced guests of his that are here visiting from Birmingham, Alabama. They are Christie and Joey Hester and both of them are also Planners.

**CORRESPONDENCE** None

**MISCELLANEOUS** Mahan told all that if the purple flag is flying at the Elks Club then it is open for business and they can then come in to visit.

Mayor Williams reminded all that Afternoon with the Mayor will be held June 26, 2014 at the Elks Club at 5:00 p.m. Chief Hibler will also be in attendance so everyone will be able to meet him. Mayor Williams said there are a variety of topics that can be discussed.

Meeting adjourned at 8:35 p.m.

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Mayor

ATTEST:

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City Clerk