

September 8, 2015

The Red Lodge City Council met in regular session on September 8, 2015 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 Mahan, Thompson, Labrie, Schoenike and Brown. Absent: Alderman Foisy.

DEPARTMENT HEAD ATTENDANCE: City Clerk – Loni Hanson, Public Works Director – Jim Bushnell, and Community Development Director-Peter Italiano.

MINUTES OF AUGUST 25, 2015 Motion by Mahan, second by Labrie to approve the minutes of August 25, 2015. On roll call vote all Aldermen present voted “Aye.” Motion carried.

MINUTES OF THE PUBLIC HEARING ON AUGUST 25, 2015 Motion by Mahan, second by Labrie to approve the Public Hearing minutes of August 25, 2015. On roll call vote all Aldermen present voted “Aye.” Motion carried.

CLAIMS AGAINST THE CITY Motion by Labrie, second by Mahan that claims against the City totaling \$165,595.10 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 \$1,569.83 was paid to Quality Code Publishing for updating the City’s Municipal Code. She also pointed out \$28,531.84 was paid to Sweeney Masonry Construction for the work being done on the Mausoleum.

OFFICER REPORTS Officer reports were included in the Council packets.

AIRPORT BOARD PRESENTATION Wally Zook, Airport Board Member, gave a short presentation on the history of the Airport Board and what the Board has been working on. He said the airport has just completed a crack seal repair, seal coat and new stripping on the runway this year. Wally said the Airports budget last year was \$156,625 and this year’s budget is \$94,400.

Schoenike asked the Airport Board if there were any issues they had and what does the City Council need to look at to help.

Wally Zook said the major issue the Board has is people building new hangers and then not being able to put in water and sewer, because of the restrictions the City has.

John Prinkki, Airport Board Member, said another issue is the ongoing maintenance of the Airport.

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

STANDING COMMITTEES- ADMINISTRATION AND FINANCE Resort Tax Forum by Beartooth Front Community Forum Diane Fisher Larson, Steering Committee Member of the Beartooth Front Community Forum, gave a presentation on the results of the Red Lodge Resort Tax Forum Survey. Larson said the Resort Tax Forum held on March 27, 2015, had five speakers and was attended by 40 people. Larson also said there were 158 people who completed the survey online and 16 written surveys for a total of 174 respondents. The survey was looking to gain knowledge in three areas: is the Resort Tax process understood, what are the expected outcomes and impacts in the community and should it be continued. She said 60% of respondents would support extending the Resort Tax beyond 2022. Larson also said some of the business owners would like better education on how the Resort Tax works.

MDT Sidewalk Contract Mayor Williams gave a brief update on the sidewalk agreement with MDT. Williams said the contract gives the City more control on what happens on the sidewalks on Broadway. Williams said the issue that the City is having is with the ADA compliant corners from 8th street to 14th street. He said there have been a number of trips, falls and injuries caused by those corners. Williams said the City notified our insurance company, MMIA, and informed them of what was happening with the sidewalks. MMIA suggested the City contact MDT and inform them of the defects and deficiencies of those corners, which the Mayor said was done back in April, 2015. Williams said the City is now working on an agreement with MDT to relieve the City of any liability if anyone files any type of litigation regarding the sidewalks. The City would also like to have something done on the corners to make them more visible. The Mayor said the City attorney is working with the State’s attorney to get some of these issues worked out.

Resolution #3393- Budget Transfers for FY14-15 Amended Motion by Labrie, second by Mahan to approve Resolution #3393 amended, a resolution of the City Council of the City of Red Lodge, Montana, authorizing fiscal year 2014-2015 budget transfers. On roll call vote all Aldermen present voted “Aye”. Motion carried.

RESOLUTION NO. 3393 Amended

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA AUTHORIZING FISCAL YEAR 2014-2015 BUDGET TRANSFERS.

Be It Resolved that the following Fiscal Year 2014-2015 Budget Transfers are hereby authorized:

Fund No.	Account No.	Description	Transfer
TRANSFER TO:			
1000	410100-300	Council-Purchased Service	696.00
1000	410500-100	Clerk-Salary	6988.00

1000	410500-200	Clerk-Supplies	921.00
1000	410500-300	Clerk-Purchased Service	1983.00
1000	411100-300	Legal-Purchased Service	2414.00
1000	410510-335	Administration-Membership	663.00
1000	420100-200	Police-Supplies	20152.00
1000	420100-300	Police-Purchased Services	27371.00
1000	460100-300	Library-Purchased Services	1233.00
1000	420400-300	Fire-Purchased Service	2746.93
1000	521000-229	Interfund Transfers Out	17201.95

TRANSFER FROM:

1000	410200-200	Mayor-Supplies	620.00
1000	410200-300	Mayor-Purchased Service	76.00
1000	410360-100	Court-Salary	2800.00
1000	410530-300	Auditing-Purchased Service	2200.00
1000	410600-200	Elections-Supplies	1000.00
1000	411040-100	Planning-Salary	8764.00
1000	411500-300	Estate Trust	66909.88

TRANSFER TO:

2100	460430-300	Parks- Purchased Services	506.00
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TRANSFER FROM:

2100	430600-940	Resort Tax-Sewer-Capital Outlay	506.00
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TRANSFER TO:

2820	521000-826	Gas Tax-PERS	2.00
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TRANSFER FROM:

2820	430240-452	Gas Tax-Building Material	2.00
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TRANSFER TO:

5210	490230-230	Water-Interest	9627.00
5210	521000-827	Water-Comp Insurance	2042.00

TRANSFER FROM:

5210	490220-620	Water-interest	9627.00
5210	510400-830	Water-Depreciation	2042.00

TRANSFER TO:

5310	521000-826	Sewer-PERS	664.00
5310	521000-827	Sewer-Comp Ins.	2547.00

TRANSFER FROM:

5310	510400-830	Sewer- Depreciation	3211.00
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PASSED and APPROVED by the Red Lodge City Council and approved by the Mayor on this 8th day of September, 2015.

Mayor

ATTEST:

City Clerk

Labrie said there was one line item that was restricted funds that was missed and needed to be transferred to another account.

Other Administration and Finance items Labrie said they had a presentation from the members of KLJ, who are in negotiations for a contract on the Sewer PER.

Labrie also said she was selected to be the Administration and Finance Committee chairperson.

LAND USE AND PLANNING Schoenike said he was selected as the Committee chairperson. He said they are continuing discussion on the parks lands.

PUBLIC HEALTH AND SAFETY Mahan said she was selected as the Committee chairperson. She said they had a lengthy discussion on the addressing. She said resources they will be using for the addressing include the Police Department, Fire and Ambulance Department, Tom Kohley and Skip Bratton, to name a few.

Mahan said they discussed the K-9 unit and it had a huge success at the Fun Run. She said cards with information and facts about the K-9 were handed out during the Fun Run.

PUBLIC WORKS Ordinance #918, Parks, Trees and Recreation Board, Public Hearing, 2nd Reading Mayor Williams opened the public hearing for Ordinance #918, Parks, Trees and Recreation Board, second reading. No one spoke. Mayor Williams closed the public hearing.

Motion by Labrie, second by Schoenike to approve Ordinance #918, an Ordinance establishing Title 8, Chapter 7 of the Red Lodge City Code concerning the composition and the duties and responsibilities of a Red Lodge Parks, Trees and Recreation Board, on second reading. On roll call vote all Aldermen present voted "Aye". Motion carried.

ORDINANCE NO. 918

An Ordinance establishing Title 8, Chapter 7 of the Red Lodge City Code concerning the composition and the duties and responsibilities of a Red Lodge Parks, Trees and Recreation Board.

WHEREAS, Montana Code authorizes by ordinance the creation of a municipal board of park commissioners, and

WHEREAS, The Red Lodge City Council desires to incorporate the recommendations of the City of Red Lodge Comprehensive Parks Plan 2015 to enable more effective decision making and execution of prioritized projects, particularly to include all activities performed the existing Parks Board.

Now Therefore,

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

The existing Title 8, Chapter 7, Parks Board, is hereby repealed.

A new Title 8, Chapter 7, Parks, Trees and Recreation Board is hereby adopted as follows:

Chapter 7

Parks, Trees and Recreation Board

Section:

8-7-1: Short Title

8-7-2: Purpose

8-7-3: Definitions

8-7-4: Parks, Trees and Recreation Board

8-7-1: Short Title.

This Chapter shall be known and be cited as the **PARKS, TREES AND RECREATION BOARD ORDINANCE OF THE CITY OF RED LODGE, IN THE COUNTY OF CARBON, STATE OF MONTANA.**

8-7-2: Purpose.

These policies for the Parks, Trees and Recreation Board are intended to establish, improve, care for, regulate and manage a system of public recreation and public trees.

8-7-3: Definitions.

As used in this Chapter, the following words and terms shall have the meanings ascribed to them in this Section:

- A. City Trails:** Non-motorized trails on City-owned lands, City rights-of-way or City easements.
- B. Equipment and Structures:** Defined to include but not limited to picnic tables, benches, grills, playground equipment, bathrooms, storage sheds, trails, sports facilities, playing fields, swimming pools, signs and fences.
- C. Parks:** All public recreation lands now existing in or to be developed within the City of Red Lodge and designated for public use.
- D. Comprehensive Parks Plan:** A document that provides an inventory of existing parks, presents a vision for the maintenance and operations of existing parks and recreation facilities, and provides public officials a guide for making decisions on land acquisition, new park developments, budgeting, partnerships and park facility upgrades.
- E. Annual Action Plan:** A prioritized one-year Plan, starting July 1, that includes maintenance and capital projects for Parks. This shall be the basis for the Parks budget.
- F. Urban Forestry Management Plan:** A document that outlines a strategic approach to sustaining the City's community trees on a short and long-term basis.
- G. Trails Plan:** A conceptual guide and strategy to develop a system of trails on public and private lands in the City of Red Lodge for non-motorized transportation and recreation for resident and visitor needs and interests. This plan should also show connections to trails or proposed trails in adjacent county lands.
- H. Tree Inventory:** A Geographic Information System (GIS) database containing information regarding street tree species, size, condition and geographic location.

8-7-4: Parks, Trees and Recreation Board.

- A. Established:** Membership of the Board shall total seven (7) members. All seven (7) members shall have full voting privileges.

1. Six (6) members shall be area residents. Of these six members, a minimum of four (4) shall reside in the City of Red Lodge and up to two of these members may reside outside of the City limits but within five (5) miles of the City limits. The Mayor, with the approval of the City Council, shall appoint these members. Members of the board shall serve without compensation.
 2. The seventh member shall be a member of the City Council. The Mayor with the approval of the City Council shall appoint this member.
- B. Term of Office:** The term of the six (6) members noted above shall be for three (3) years serving staggered terms with at least two members' terms expiring each January 1. As each member of the Board completes their term, the Mayor shall reappoint that member or appoint a replacement with the approval of the City Council. The term of the City Council member shall coincide with the term of their elected office.
- C. Officers and Their Responsibilities:** Officers shall consist of a Chairman, a Vice-Chairman and a Secretary. The term of office shall be one year. Officers shall be elected by the Board at the first meeting of the Board after January 1 of each year.
1. The Chairman shall preside at all meetings or appoint the Vice-Chairman to do so. The Chairman shall call special meetings when they are deemed necessary, with proper public notice in accordance with MCA 7-1-4135, and shall appoint committees and sign all official papers and plans. The City Council representative on the Parks Board shall serve as liaison to the City Council.
 2. The Vice-Chairman shall assume the duties and powers of the Chairman when called upon by the Chairman. If both the Chairman and Vice-Chairman are absent from a meeting the Board may elect a temporary Chairman.
 3. The Secretary shall keep the minutes of all meetings.
- D. Staff Support:** The Parks Board shall receive support from a member or members of the City Staff designated by the Mayor.
1. The Staff shall assist in preparation of meeting agendas and give notice of all regular and special meetings of the Board in compliance with applicable State law. The Staff shall also maintain printed and electronic files of all studies, plans, reports and recommendations.
 2. The Staff shall advise the Board in matters requiring public hearings and provide recommendations for conducting meetings so as to ensure that the hearings are conducted in accordance with 7-1-4131, MCA.
 3. The City Council Parks Board member shall keep track of the dollar amounts budgeted to the Parks Board by the City Council, all expenditures and any grant monies or donations. The City Council Parks Board member shall provide monthly budget status reports at regular meetings and help coordinate preparation of a proposed annual budget to be submitted to the City Council before July 1 of each year.
 4. The Staff shall inform the Parks Board of pending subdivision proposals requiring dedication of parkland or cash in lieu, certify expenditures of the cash in lieu and facilitate recommendations of the Board to the Planning Board and/or the City Council.
 5. The Staff shall provide administrative support to the Board, as time constraints permit, by working jointly with the board on contract work to include solicitation, preparation, administration and documentation.

6. The Staff shall coordinate maintenance, repair and construction project needs with the Public Works Department as they arise.
7. The Staff shall notify the Board of any development that might require the removal or cause injury to any street tree or interfere with the fulfillment of the Urban Forest Management Plan. The Staff shall coordinate with the Public Works Director or other appropriate organizations to facilitate recommendations of the Board regarding such.
8. The Staff shall inform the Board of proposed requests for use or modification of Parks, City trails, street trees, and parks trees and plants. The Staff shall coordinate with the Public Works Director to facilitate recommendations of the Board regarding such.
9. The Staff shall provide administrative support to the Board, as time constraints permit, regarding grants by working jointly with the Board to provide draft documentation for grants to include preliminary eligibility determinations and grant application preparation, and once approved the administration and post wrap-up filing.
10. The staff shall provide administrative support to the Board, as time constraints permit, regarding their development of Memorandums of Understanding with organizations that assist in maintenance and operations of parks, City trails and/or equipment. Once approved, Staff will handle the administration and post wrap up filing.

E. Duties and Responsibilities of the Board: The Board is an advisory Board to the City Council and the Mayor. It shall be the responsibility of the Board to:

1. Develop by-laws that include, at a minimum, attendance requirements; date, time and place of regularly scheduled meetings; special meetings requirements; quorum; standard of conduct; parliamentary procedure; public nature of meetings and records; and amendment procedures.
2. Oversee the review and update of the Comprehensive Parks Plan to ensure that existing development and future growth are adequately accommodated. This Plan shall address development and maintenance of parks for both the short-term and long-term and be reviewed and updated at least every five years. The Board will make recommendations to the City Council as to inclusion of the Comprehensive Parks Plan in the City Growth Policy.
3. Oversee the review and update of the City of Red Lodge Comprehensive Trails Plan, Rocky Fork Trails System, for incorporation in the City Growth Policy. This Plan shall outline a system of trails on public and private lands in the City of Red Lodge and adjacent county lands for non-motorized transportation and recreation and be reviewed and updated at least every five years. The Board will make recommendations to the City Council as to inclusion of the Trails Plan in the City Growth Policy, as well as options for coordination with the County regarding adjacent lands.
4. Oversee the review, update and implementation of the Urban Forestry Management Plan as detailed in Red Lodge Code 8-5-4. The Urban Forestry Management Plan shall be reviewed and updated at least every five years.
5. Oversee the development and update of a City Tree Inventory of street and park trees as detailed in Red Lodge Code 8-5-5. The City Tree Inventory shall be reviewed and updated at least every five years.
6. Maintain a list of preferred trees and trees not approved for use in parks, public rights of way and other City owned lands as detailed in Red Lodge Code 8-5-6.

7. Draft an annual Action Plan that includes maintenance and capital projects based on the Comprehensive Parks Plan, the Trails Plan and the Urban Forestry Management Plan. Subsequent to budget approval for the next fiscal year, revise as necessary and adopt the annual Action Plan.
8. Prepare an annual budget recommendation to the Council, by June 1, to implement the annual Action Plan.
9. Make recommendations to the City Planning Board regarding subdivision regulations to require the dedication of parkland and/or “cash in lieu” of parkland, as appropriate.
10. Develop and recommend to the Council rules for the use of parks by the public. (MCA 7-16-4222)
11. Provide and recommend to the Council penalties for the violation of the rules for the use of parks by the public. (MCA 7-16-4222)
12. Recommend to the Council the lay out, establishment, opening, alteration, widening, grading, paving, improvement or vacation of parks. (MCA 7-16-4101)
13. Pursue supplemental sources of funding in order to develop, maintain and improve parks to include, among others, investigating voluntary conservation easements, using City property as trading stock for acquisition of property needed to meet open space and parks goals, and recommending to the Council a tax levy for recreational facilities for the purpose of procuring, equipping and maintaining public parks, swimming pools, skating rinks and playgrounds. (MCA 7-16-4105)
14. Work cooperatively with other community organizations and encourage them to become involved in park and tree beautification projects.
15. Recommend other actions germane to parks, trails, open space and trees to the Council.
16. Develop comprehensive strategic implementation plans for specific parks as needed.

Effective Date:

This Ordinance shall be effective 30-days after approval of a second reading by the Red Lodge City Council.

Be it ordained by the Council Members of the City of Red Lodge.

First reading by the Council on the ____ day of _____ 2015

Second reading by the Council on the ____ day of _____ 2015

PASSED AND APPROVED BY NO LESS THAN FOUR MEMBERS OF THE RED LODGE CITY COUNCIL THIS ____ day of _____ 2015

The City of Red Lodge

By:

Ed Williams, Mayor

Attest:

Loni Hanson, City Clerk

Ordinance #919-Tree Regulations Mayor Williams moved this item to discussion.

Schoenike said there is still some discussion on who should be responsible for trees that are in the rights-of-way and they will continue to work on it.

Consultant Selection for Sewer PER Schoenike said the Selection Committee met last Tuesday and interviewed the three finalists for the Sewer PER. The finalists were Great West Engineering, KLJ and Morrison Maierle. KLJ was selected and the Administration Committee is working with them on a contract.

Resolution #3397, Denial of Appeal Mayor Williams reopened the Public Hearing, that was held on August 25, 2015, regarding the Appeal of Administration Decision regarding water service to a property outside of the City limits.

Mayor Williams asked the Council if any member had any ex parte communications regarding this matter, after the August 25th meeting. Aldermen Mahan, Labrie, Schoenike, and Brown responded no. Alderman Thompson recused herself as she was not at the previous Public Hearing.

Peter Italiano, Community Development Director, advised the Mayor and Council he had not received any more correspondence or information since the last Public Hearing.

Motion by Schoenike, second by Mahan to approve Resolution #3397, a resolution of the City Council of the City of Red Lodge, Montana, denying the appeal filed by Laura Odegaard seeking administrative relief from the decision of the Public Works Director, specific to the project file RL-AA-15-01. On roll call vote all voting Aldermen voted “Aye”. Motion carried.

Resolution #3397

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RED LODGE, MONTANA, DENYING THE APPEAL FILED BY LAURA ODEGAARD SEEKING ADMINISTRATIVE RELIEF FROM THE DECISION OF THE PUBLIC WORKS DIRECTOR.

WHEREAS, on or about July 20, 2015, Ms. Laura Odegaard requested Water Service from the City of Red Lodge for property lying outside the City Limits and importantly outside the City’s Water and/or Wastewater Service Area, and

WHEREAS, Criteria “A” of the Red Lodge Municipal Code in Title 10, Chapter 3, Section 5 restricts City Water Service for only those properties “located within the utility’s Water and/or Wastewater Service Area” and

WHEREAS, on August 11, 2015, the Public Works Director of the City of Red Lodge issued a Letter of Denial to Ms. Odegaard regarding her request for Water Service to her property since the property is not located within the utility’s Water and/or Wastewater Service Area, and

WHEREAS, on August 11, 2015, Ms. Laura Odegaard requested an Appeal of the Administrative Decision issued by the Public Works Director, and

WHEREAS, the Red Lodge Municipal Code Title 10, Chapter 2, Section 6 provides for the review of administrative actions, and

WHEREAS, on August 25, 2015, the City Council of the City of Red Lodge held a duly noticed public hearing and heard testimony regarding the Odegaard appeal (project file RL-AA-15-01), and

WHEREAS, the City Staff presented its report with Findings of Fact detailing the following:

- Finding of Fact: The Tap Permit which was issued to Ms. Odegaard has been expired for over twelve (12) years.
- Finding of Fact: The previously issued 2003 Odegaard permit contained a citation and reference to Ordinance 515; which constitutes a public document that is readily available to the public. Ms. Odegaard failed to recognize that Ordinance 515 clearly provided a 6 month expiration for the issued Tap Permit.
- Findings of Fact: The City’s current regulations restrict Water Service for only those properties located within the Red Lodge Water and/or Wastewater Service Area (aka. the City Limits), and

WHEREAS, based on the above-findings, the Council finds that there is no regulatory reason, or precedent to honor or enforce the Expired Tap Permit, or to provide Water Service outside its Service Area in violation of its own duly adopted and enforceable regulations.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Red Lodge, Montana, that the Appeal of the Public Works Director’s decision to deny the Odegaard service request is hereby denied and as a result the Public Works Director’s decision constitutes the final decision of the City of Red Lodge in this matter.

Authorized by the City Council of the City of Red Lodge, Montana, the 8th day of September, 2015 and approved by the City Council of the City of Red Lodge, Montana, the 8th day of September, 2015.

CITY OF RED LODGE

Attest:

By: _____

By: _____

Ed Williams, Mayor

Loni Hanson, City Clerk

Schoenike said Ms. Odegaard did receive a permit in 2003 and the permit did state on it that it was subject to the conditions of Ordinance #515, which clearly provides a 6 month expiration date.

Schoenike said regarding getting a new permit now, our new ordinance states you must live within the City limits and he said for that reason, denying the appeal is the appropriate action.

Other Public Works items Schoenike said they selected Foisy as the Committee Chairperson.

CITIZEN REPORT None.

CORRESPONDENCE None.

MISCELLANEOUS Williams said on Thursday, September 17th, 2015, at 7:00 p.m., the County Commissioners will be holding a meeting regarding the dispatch rates. The towns of Joliet and Bridger requested to have this meeting and the City of Red Lodge was invited.

Brown wanted to thank Foisy for all of his hard work and time coordinating the Fun Run.

Williams said the Annual Fall Clean-up will be September 18th and 19th, from 8 a.m. to 3 p.m., at the Recycling Center.

Williams said Republic Services started putting out the new Kodiak garbage cans 10 days ago and are putting them in areas where the bear activity is the most active. Williams said the bears have tried to get into some of the Kodiak cans and could not get into them.

Meeting adjourned at 8:03 p.m.

Mayor

ATTEST:

City Clerk