

February 12, 2013

The Red Lodge City Council met in regular session on February 12, 2013 at 7:00 p.m. The meeting was called to order by Mayor Roat followed by the Pledge of Allegiance to the Flag.

ROLL CALL OF OFFICERS Present: Mayor Roat, Aldermen Foisy, Mahan, Larson, Labrie, Schoenike and Williams. Absent: None.

DEPARTMENT HEAD ATTENDANCE: Community Development Director – Forrest Sanderson, City Clerk – Debbie Tomicich, Ambulance Director – Aaron McDowell and Fire Chief – Tom Kuntz.

MINUTES OF JANUARY 22 Motion by Mahan, second by Labrie to approve the minutes of November 27 as submitted. On roll call vote all Aldermen voted “Aye.” Motion carried.

CLAIMS AGAINST THE CITY Motion by Labrie, second by Williams that claims against the City totaling \$131,439.61 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 the claim to Great West Engineering totaling \$9,073.50 for work being done on the Broadway Rehab Project. There was also a claim for \$14,353.04 to Power Sports Tech for the grader repair.

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

COMMENTS FROM PUBLIC REGARDING AGENDA ITEMS None.

SPECIAL COMMITTEES – Grizzly Peak Adventure Race 2013 Stephanie Kirkpatrick, Montana Cycling & Ski Race Series and Montana Timing, was in attendance at the meeting to let the Council know that they will be hosting the 3rd annual Grizzly Peak Adventure Race on Saturday, April 23, 2013. They are partnering with Red Lodge Mountain for the ski and bike portion of the race and finishing the run portion at Sam’s Tap Room. Participants will ski Lazy M and mountain bike from the base of the ski mountain down Ski Run Road (West Fork Road) to the LDS Church parking lot. Runners will then head north on White Avenue to the airport, then head NE on Highway 78 to North Hauser Avenue, run north on North Hauser to 1st Street W, east on 1st Street W to Highway 212, and north on Highway 212 to Sam’s Tap Room. Professional support and good road markings will be provided.

The goal is to be safe, have fun, and continue a great tradition. Signage from MDT to help mark the course along Highway 78 and 212 so vehicles are aware there is a race in progress will be provided. MDT has approved the use of Highway 78 and 212.

Motion by Mahan, second by Labrie to approve this upcoming event. On voice vote all Aldermen present voted “Aye.” Motion carried.

STANDING COMMITTEES – ADMINISTRATION – Construction Agreements – MDT – Highway 212 Motion by Labrie, second by Williams to approve the Construction Agreement between the City of Red Lodge and the Montana Department of Transportation for Highway 212. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Sanderson said the attorney for MDT did not like the City’s idea of limiting the venue for issues being the 22nd or the 13th Judicial Districts which would be Carbon County or Yellowstone County. Sanderson said he would hazard a guess that the agreement that will come from the State, after they have reviewed and approved, will make the venue in Helena which is standard State practice. The City will sign the agreement as it is presented at this time.

Resolution #3355 – Reserve Portion of Pride Park for July 2, 3, and 4th
RESOLUTION NO. 3355

RED LODGE CITY COUNCIL

A resolution by the City Council of the City of Red Lodge to create a dedicated space for the U.S. Air Force Recruiter during the 2nd, 3rd and 4th of July, 2013, Independence Day Celebration.

WHEREAS: The Red Lodge City Council has been designated a Yellow Ribbon Community for our outstanding support of Veterans; AND

WHEREAS: The VFW Post #4725 has submitted a request for a military fly over as a part of our 4th of July celebration; AND

WHEREAS: A portion of the application for military support requires that space be made available for U.S. Air Force recruiting during the event; AND

WHEREAS: The City of Red Lodge is the owner of Pride Park:

NOW THEREFORE BE IT RESOLVED, by the City Council of the City of Red Lodge, Montana to adopt Resolution Number 3355 which formally creates and authorizes the use of up to 200 square feet of Pride Park by the U.S. Air Force for recruiting purposes during the 2nd, 3rd, and 4th of July, 2013, Independence Day Celebration.

Motion by Larson, second by Mahan to approve Resolution #3355. On roll call vote all Aldermen present voted “Aye.” Motion carried.

Sanderson said the application for a flyover by the Air Force for July 4th has been completed. He said however that it has not been approved. At this time it looks like the flyover will not be conducted due to the potential sequester of Federal funds but the VFW is trying very hard to make it happen. If the flyover does not occur in 2013 the VFW will try again to have it happen in 2014. Mayor Roat said that this resolution is meeting one of the requests made, which is to have a location for a recruiting booth set up, if the flyover is to be granted. A portion of Pride Park will be used to set up this booth.

MLIA – Grant Application – GIS Database Tom Kohley told the Council that the City received grant funding in 2008 and 2011 for the GIS database. This will now be the third grant application submitted by the City. The MLIA Grant funding is collected at the County level through recording fees. It then goes to the State for a grant pool and all local governments are eligible to apply for the funds. The purpose of this application is for further advancement of GIS capabilities in the City. They would like to further standardize the GIS information the City currently has and make it more accessible via web services for other departments in the City such as, Planning, Land Use, Zoning and Addressing.

Kohley said that approximately \$10,000 to \$12,000 will be requested from these grant funds. Matching on behalf of the City would come in the form of in-kind work.

Motion by Williams, second by Labrie to authorize the 2013 grant application to Montana Land Information Act Program. On roll call vote all Aldermen present voted “Aye.” Motion carried.

TBID Larson said the TBID meeting was held on February 8 and he gave a short review of discussed items. They talked about board member terms, had an update on the work that will be done by MDT and the route of the proposed project. \$5,869 was collected the last quarter of 2012 and one main goal is how to monitor the dollars spent for advertising in connection with room stays.

Study Commission Sanderson said the option of the City conducting a Study Commission Review will be placed on the ballot in the primary election held in June, 2013. This commission is voted on every ten years. This is something that allows for the public to decide if they want to review their form of government to see if there are any potential items that need to be voted upon.

POLICE AND EMERGENCY SERVICES – Interlocal Agreement with the Ambulance District Williams said that he and Tom Kuntz will get together and work through the few items that are pending involving the Ambulance District and then bring it back to the Council and to the District Board for any discussion that needs to be held.

Mahan said that one of things that has been discovered is that the snowplowing is covering up the fire hydrants. She said it is not believed that it is the City plows that are doing this but that it might be the private plowers that are failing to pay close enough attention to the hydrants. She said that this will be addressed.

The plowing of the police station and the fire station were also discussed at the Public Works Committee meeting and this is also something that will be taken care of.

Mahan said that signs on the sidewalks were discussed and that it is probably not very effective especially in the winter time. She said that articles will go out in the newspaper alerting the public to such things as rules of the road. If there are topics that need to be put in the paper they need to be brought to the attention of the Police and Emergency Services Committee. These articles will be informative but short in length so that people will read them and get the correct information.

Police Commission It was brought to the Council’s attention that there is currently an opening on the Police Commission that was previously held by Bill Larson. Letters of interest will be accepted for this opening and hopefully it will be filled soon.

LAND USE AND PLANNING – Ordinance #897 – Feeding of Wildlife – 1st Reading/Public Hearing

ORDINANCE # 897

AN ORDINANCE TO CLARIFY AND REVISE ORDINANCE #765, THE RED LODGE KEEPING, HOUSING AND/OR MAINTAINING OF WILD ANIMALS WITHIN THE CITY LIMITS.

WHEREAS: The City Council of the City of Red Lodge, Montana has determined the need to clarify the limitations of keeping, housing feeding or maintaining of wild animals within the City Limits; and

WHEREAS: The City Council has determined that the limitations found in Ordinance #765 may lead to some confusion by the general public as it is codified in the Municipal Code; and

WHEREAS: The City Council has determined that remaining mute to the issue is not in the best interest of the City, its residents and the wildlife that cohabitate within the City Limits; and

Now therefore:

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

Section 5-5A5. Shall be amended to read as follows:

Wild Animals.

- A. Definition: “Wild animals” are defined as those animals listed below, but not limited to said list: antelope, anteater, ape, orangutan, bear, badger, beaver, bobcat, deer, elephant, elk, ferret, fox, giraffe, gopher, jaguar, lynx, lion, mink, monkey, moose, mountain lion, wolves, coyote, mountain goat, opossum, puma, raccoon, rat, skunk, reptiles, tiger, weasel, wild fowl including turkeys, or any other undomesticated animals.
- B. Prohibited: The keeping, housing, feeding, and/or maintaining of any and all wild animals within the city limits, except at those locations which are in existence on the effective date hereof is hereby prohibited. Should, for any reason, an animal which is in existence on the effective date hereof be removed from the present location for a period of seven (7) consecutive calendar days, the animal will not be allowed to be returned to the property or location. (Ord. 765, 3-27-1990)
- C. It shall be unlawful for persons to keep, house, provide feed, supplemental or otherwise, or maintain any wild animal within the City Limits as provided by this ordinance.
 - 1st Offense- Written Warning.
 - 2nd Offense- \$100.00 fine.
 - 3rd or subsequent Offense- \$300.00 fine.
- D. Exemption: (1) The Yellowstone Wildlife Sanctuary and the feeding of animals in their care is specifically exempt to the requirements of this Ordinance. (2) Bird feeders are exempt to the provisions of this ordinance provided that the bird feeders are not installed and operated for the purpose of providing supplemental feed to any of the animals described in section A.

Effective Date.

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

Repealer.

All other ordinances and resolutions of the Red Lodge City Council pertaining to the keeping of Wild Animals within the City of Red Lodge with the exception of Title 5 Chapter 5A and Title

12 (Zoning Regulations) are repealed upon the effective date of this ordinance. The effective date of Ordinance #765 is specifically NOT repealed.

Codification Note:

This Ordinance is intended to be codified in Title 5-5A-5 Wild Animals in the Red Lodge Municipal Code.

Be It Ordained By the Council Members of the City of Red Lodge.

Mayor Roat opened the public hearing with no one speaking to the topic. Mayor Roat closed the public hearing.

Schoenike said it was the turkey population in town that prompted the reevaluation of this ordinance.

Motion by Schoenike, second by Labrie to approve Ordinance #897, an ordinance to clarify and revise ordinance #765 dealing with the keeping, housing and/or maintenance of wild animals within the City limits on first reading. On roll call vote all Aldermen present voted "Aye." Motion carried.

Sanderson spoke to a couple of exceptions that are very important. One is to protect the Yellowstone Wildlife Sanctuary for the feeding of animals in their care. These animals will be exempt. Sanderson said that birdfeeders have also been exempted using the language out of Montana law where it states that you can have a birdfeeder as long as you are not over utilizing it to serve as an attractant to turkeys or other wildlife such as bears.

Town Pump – Bonding for Required Improvements On June 27, 2012 the City Council issued three Conditional Use Permits (CUP) to Town Pump of Hardin to provide for the construction of a 10,346 sq. ft. convenience store with drive through service for dispensing motor fuels and off-premise consumption alcohol sales. The CUP was subject to 32 conditions of approval all of which must be met in order for the facility to open.

The Red Lodge Zoning Regulations in 4.5.87 provide for development agreements and the bonding of certain improvements provided that the required improvements are guaranteed by a method in 2.4 of the Red Lodge Subdivision Regulations.

Sanderson spoke to condition #2: That the developer shall obtain a building permit from the City and comply with any/all requirements including obtaining a certificate of occupancy prior to opening or conducting any of the activities discussed in the application. A building permit has been issued by the City Building Inspector and compliance inspections are ongoing. The regulated construction has not been completed. As such, a certificate of occupancy has not and cannot be issued. Sanderson is not aware of any major outstanding issues that would preclude the certificate of occupancy being issued once the structural work is completed.

Condition #6: That the developer is required to provide shade for at least 35% of the parking area as measured on August 15 at noon. Said shading plan shall be reviewed by the City Engineer and approved by the Zoning Administrator. The revised shading plan has been approved but the vegetation has yet to be installed. The owner is proposing to bond for the installation of required vegetation.

Condition #11: The developer shall install the following improvements on Bonner Avenue adjacent to their ownership (Intersection of 3rd Street to the Comfort Inn Property Line). Sidewalk, curb, gutter, parking lane, two 12 foot wide moving lanes. The improvements shall be in accordance with the minimum requirements of the City, reviewed by the City Engineer and approved by the Public Works Director. The required improvements shall be installed prior to opening of the facility. Most of the required work has been completed. There is some outstanding work on Bonner Avenue that must be completed once the right-of-way issues with Mr. Mollring are resolved. Town Pump is proposing to bond for the outstanding work. All of the work has been reviewed by the City Engineer and approved by the Public Works Director.

Condition #12: The developer shall pave Bonner Avenue from Second Street to Fifth Street, with the exception of the section described above, in accordance with the following standard: 24 feet where the City right-of-way is greater than 40 feet in width and 20 feet where the right-of-way is less than 40 feet in width. The improvements shall be in accordance with the minimum requirements of the City, reviewed by the City Engineer and approved by the Public Works Director. The required improvements shall be installed prior to opening of the facility. Most of the required work has been completed. There is some outstanding work on Bonner Avenue that must be completed once the right-of-way issues with Mr. Mollring are resolved. Town Pump is proposing to bond for the outstanding work. All of the work has been reviewed by the City Engineer and approved by the Public Works Director.

Condition #18. That all lighting associated with the project shall be installed at a 90* cut off, shielded and directed downward onto the structure or parking area. The use of mercury vapor lamps for lighting is expressly prohibited. Lighting shall not create off-site glare. Sanderson said he needs to look at the lighting but that he is calling this condition as met. He said he did see the shields but has not been down in the evening since the lights were installed on the canopy. The units have been recessed as instructed.

Sanderson said that condition 19 has been met. This is the solid fence along the boundary with the Comfort Inn. This fence must be installed in addition to any vegetation along this boundary as a headlight screen.

Sanderson told the Council that the issues to be addressed at this meeting are whether the Council will allow for the bonding on the outstanding asphalt which cannot be laid in February and the landscaping in the forms of bushes, trees and sod that cannot be laid at this time of year. Sanderson said that the recommendation is to allow for bonding based on the engineer estimate

and the estimate from the landscape architect that are part of the report given to the Council and the performance bond that is being held in the amount of 125% of the outstanding required work on the landscaping and paving.

Motion by Schoenike, second by Williams to move the adoption of Staff Report RLFP-13-01 as amended by Mr. Sanderson's comments, as findings of fact and that the owner of Town Pump of Hardin may bond for the asphalt paving and landscaping vegetation subject to the four conditions:

- 1) That the bond will not be reduced in any manner or form until such time that all the outstanding work is performed. That the bond will be held for up to and including one year.
- 2) That any other conditions imposed as a result of the use permit are still binding and the City is not waving anything nor giving up any rights for construction or for operational compliance.
- 3) That July 31, 2013 is the final date for the vegetation and paving to be completed.
- 4) That the owner may not open until all the other required construction requirements of the Conditional Use Permits have been met or certified by the certifying entity.

On roll call vote all Aldermen present voted "Aye." Motion carried,

Town Pump said that the conditions are fine with them and they are happy to be in Red Lodge and have enjoyed working with the City on their project.

Sanderson said he wanted to quash some of the rumors that he has been hearing. He said there are no gaming machines in the building. Lottery tickets will be sold as they are taken into consideration with the Resort Tax. Sanderson had the report from the State stating no gaming.

Sanderson has also been hearing that motor fuels have been delivered to the site and that the State has not reviewed, evaluated or permitted the fuel storage and delivery systems. Sanderson has the papers from the State on this issue also and Town Pump has complied.

Growth Policy Schoenike told all that the Planning Board will be meeting February 13, 2013 at 5:30 p.m. in the Council Chambers for ongoing discussion on the Growth Policy. The topic for discussion will be Residential and Homeowners Associations.

PUBLIC WORKS – MDT – Right-of-Way - Highway 212 and 78 Projects Sanderson said he has a series of deeds that are a part of Phase I, Highway 212 acquisition and Highway 78 acknowledgements. Specifically we have acquisitions going on at the Carnegie Library, the Arts Guild, Silver Strike, Chamber of Commerce, the triangle property in front of the Fire Hall, the access to Rock Creek Home and Garden between Red Lodge Spas and Rocky Mountain Tire, are still waiting on documents from 212 North Phase I. These documents are the ownership between Northern Energy and Schessler Ready Mix and also are waiting for the document and construction permit for the extension of Beartooth Lane from Highway 212 down to the storage retention pond. Sanderson said that the other outstanding acquisition is that the City does not

have an acquisition price on the Chamber of Commerce property. He said that hopefully in two weeks' time when these deeds hit the agenda as action he will have all of the facts, figures and documents available for the Council.

Controlled Access – Highway 78 – Hauser to Powers Hill Sanderson said the controlled access acknowledgements on Highway 78 for the City's booster pump station at Country Club Estates and for the cemetery should be finalized and ready for action in two weeks. Sanderson said he has not yet seen the document from MDT for the realignment of Airport Road which will be an acquisition and realignment to where the current access will be moved to the west to where it aligns with Lazy M going into Country Club Estates. All these documents will come to the Council for approval.

Sanderson said the City is also reaching out to lessees and other landowners to know that this is all going to finally happen. All will be made aware as to what is coming.

Wayne Stevenson asked if there would be an impact on his approach. Stevenson lives on Hauser and Highway 78 behind the fire station. Sanderson told him that he is grandfathered in and there will be no impact on his approach.

Public Restrooms Mayor Roat said that the men's side of the public restroom has been vandalized to the extent of holes being made in the interior walls. He said he believes a camera should be put in the entrance way with a sign stating that this has been done. Hopefully this will help eliminate more damage.

CITIZEN REPORT Betty Ansorge stated that she hopes if the flyover does not occur this year that it will happen in 2014. She thanked everyone for the work they have done on this project.

George Beudet said he has installed LED lighting at Town Pump and told the Council to see what it looks like. He also stated that Rockin' J has light pollution and is very annoying. He said he would get the information as to where complaints can be sent regarding light pollution.

Wayne Stevenson disagrees with Beudet and feels that the lighting at Town Pump is more annoying than Rockin' J's. He said he lives where he can see both businesses. Beudet said he is speaking about the canopy lights.

Sanderson pointed out that the RFP's for trash collection have been sent out and responses will be coming to the Administration Committee for review in early April. Mayor Roat asked if e-waste recycling was included in the RFP and was told that it was.

CORRESPONDENCE None

MISCELLANEOUS Williams told the Council that during 2012 there were 154 domestic animal calls in Red Lodge. He said this was about normal but the largest increase was the calls on lost and found dogs which were up by about 57% from last year.

Williams asked the Council for permission to be out of town for five days and absent from the next meeting and also pointed out that it states in the M.C.A. code books what an Alderman needs to do when being absent from his seat.

Motion by Mahan, second by Labrie to grant Williams permission to be absent. On voice vote all Aldermen present voted "Aye." Motion carried.

Mayor Roat said the Climate Protection Group will be bringing a presentation to the Council in the near future. Sanderson and the Mayor met with the group to let them know that the City is trying to help with things like the solar panels and lighting.

Meeting adjourned at 8:15 p.m.

Mayor

ATTEST:

City Clerk