

City Council Meeting
May 25, 2010

Present: Mayor John Williams, Councilpersons Dan Becker, Tom Jankowski, Evan Stewart and Rick Harbin

Also Present: City Attorney Gary Ryder, Public Works Director John Bleth, City Clerk/Treasurer Michelle Richards, Police Chief Larry Reinlasoder, Building/ Planning Official Jan Morgan and Fire Chief Ryan Reid

Mayor Williams called the meeting to order at 7:00 pm. Following the Pledge of Allegiance, Clerk/Treasurer Richards called the Roll Call.

Consent Agenda:

Councilperson Harbin moved to approve the Minutes and Claims Roster only from the Consent Agenda. Councilperson Stewart seconded the motion. No discussion. Motion carried with all in favor.

- a. Minutes of 5/11/10 Regular Meeting
- b. Claims Roster 5/21/10

Departmental Reports:

Department Reports were given by Police Chief Reinlasoder, Building/Planning Official Morgan, Fire Chief Reid, Attorney Ryder, Public Works Director Bleth and City Clerk/Treasurer Richards in addition to written reports provided in Council's packets.

Public Comment and Participation:

Lu Shomate, Director of the Schoolhouse History and Art Center, gave the City Council an update on recent SHAC activities and upcoming events. The adult education classes have ended but SHAC's Summer Program will start in June.

Tom Schreiner, Chief Medical Officer at the Lame Deer Health Services, stated the Medical Marijuana Bill was an ill-conceived and ill-enacted law. He encourages the City Council to reject any ordinance that will allow the sale of medical marijuana within city limits. He also commented that the Tribal Government's position is that marijuana is still illegal and does not recognize the state law in any shape or form.

Rose Hanser, 10 Juniper, asked the City Attorney if the city can prohibit the sale of medical marijuana. Attorney Ryder explained that due to the existing section in the city's code stating the city will not issue a Business license to a business in violation of state and federal laws that the city will prohibit until the state legislature addresses the issue. She asked the City Council to please prohibit allowing the sale of medical marijuana in our community.

Attorney Ryder reported there are currently 19 medical marijuana card holders in Rosebud County.

Mayor's Communications:

Mayor Williams attended the Montana League of Cities & Towns District Meeting in Miles City last week. There will be a 5.14% increase in the State Entitlement Share Payments made to municipal governments in Montana. The annual inflation factor adjustment this year will be 1.412%.

The meeting scheduled last week with the Police Department Bargaining Unit was not held since no one from the bargaining unit showed up. City officials were present along with the union representative from Public Employees Association.

Unfinished Business:

Councilperson Harbin moved to approve the first reading of Ordinance 2010-03, restricting the public display/consumption of medicinal marijuana. Councilperson Stewart seconded the motion. Discussion: Councilperson Harbin stated the city cannot stop the use of medical marijuana but can limit where it is used. Motion carried with all in favor. Second reading of the ordinance will be at the next regular council meeting.

Attorney Ryder has prepared a Medical Marijuana Special Permit Requirement ordinance for council's consideration. Councilperson Stewart asked if the city didn't already have an ordinance restricting the license of businesses in violation of state or federal law, could the city adopt an ordinance prohibiting this type business. Attorney Ryder stated the cities of Kalispell and Helena have taken the approach of prohibition and he doesn't have a problem with adopting a moratorium until the state legislature addresses the issue. Councilperson Stewart commented that if the city allows medical marijuana businesses, if they meet the city's requirements, it gives the perception that the city lets people do it. Councilperson Stewart asked if the proposed \$2,000 and \$1,000 fees could be discriminatory since other business licenses are only \$50. Attorney Ryder replied that due to the higher risk and safety issues involved he feels the higher fee is justified. Councilperson Stewart asked regarding the requirement for an "adequate security system", wondering if there should be more language pertaining to storage facilities. He also feels these types of businesses should be restricted a certain distance from parks just like schools. Councilperson Stewart favors a ban and doesn't want to allow it as people could possibly find a loophole around the requirements. Councilperson Harbin said he agrees with Councilperson Stewart and just be honest and say that we don't want it. He feels the city should reject licensing and thinks the state will make more restrictions and regulations. Councilperson Becker stated the way the ordinance is set up he doesn't think anyone is going to try and meet all the requirements and since there are only a handful of local people with green cards, their marijuana could be delivered to them from providers in other places. Councilperson Jankowski asked if Attorney Ryder is recommending that the city not allow any marijuana providers business licenses until the state addresses the problem. Attorney Ryder stated that is correct and that the city also needs to review its business license ordinance for enforcement revisions.

New Business:

Carl Jackson of Kadrmas, Lee and Jackson opened sealed bids for Phase II of the Sweetgrass Subdivision Paving Project. The following bids were received:

CMG Construction	\$539,470.00
Riverside Sand & Gravel	\$563,355.50
H.L. Ostermiller	\$570,072.63
JEM Contracting	\$579,593.50

The engineer’s estimate for this project is \$604,082.25. The bids will be reviewed by Mr. Jackson and a recommendation submitted for council’s consideration at the next meeting.

Councilperson Becker moved to select Kadrmas, Lee and Jackson as the city’s engineer. Councilperson Jankowski seconded the motion. Discussion: Councilperson Becker stated he took all of the proposals home that were received and reviewed each one and the qualifications of each firm’s staff. Councilperson Harbin asked how the long contract will be. Mayor Williams responded it will be a 5 year contract. No objection or other comments were received. Motion carried with all in favor.

Councilperson Stewart moved to approve Resolution 2010-R03 restricting the issuance of Business Licenses for Retail Establishments to Sale Medical Marijuana. Councilperson Jankowski seconded. Discussion: Councilperson Stewart stated the city already has an ordinance restricting the issuance of business licenses that violate federal law, this resolution reinforces that ordinance. Councilperson Becker noted that the last sentence of the resolution should be ‘State and/or Federal law’ instead of just ‘State and Federal law’. This is just a typographical error and will be corrected. Motion carried with all in favor.

Councilperson Stewart moved to postpone action on the Identity Theft Protection Resolution and Policy until the next meeting. Councilperson Jankowski seconded the motion. Discussion: Councilperson Stewart would like to give more time to the City Council to review this new policy. Motion carried with all in favor.

Administrative Matters:

Councilperson Harbin thanked Tana Pippin and the Tree Board for bringing in the speakers for tree planting and care. There was a lot of good information provided.

Adjournment:

Councilperson Jankowski moved to adjourn. Councilperson Stewart seconded the motion. Mayor Williams adjourned at 8:00 pm.