



COUNCIL AGENDA

July 10, 2023 - 6 PM

The City Council will hold the meeting in the Council Chambers at City Hall
300 Main Street
Deer Lodge, MT 59722

1. **Call Meeting to Order | Pledge of Allegiance**
2. **Public Comment** – Members of the audience may comment on any non-agenda item. State Statute limits the City Council from discussing any introduced item. The Council limits each person to three minutes to ensure there is sufficient time for all comments. The Council respects all comments and will have staff follow up any questions.
3. **Public Hearing.**
 - a. None
4. **Approval of Minutes**
 - a. Regular Meeting: June 20, 2023
5. **Committee Reports - Reports accepted as presented.**

a. City Council Operations – Rob Kersch	d. Public Health & Safety – Joseph Callahan
b. Finance Committee – Dick Bauman	f. Public Works – Gordon Pierson
c. Economic Growth & Development – John Henderson	
6. **Board Reports**

a. Airport Board – Gordon Pierson	f. Landfill – Rob Kersch
b. Powell County Parks Board – Dick Bauman	g. Local Emergency Planning Committee – Dick Bauman
c. Chamber of Commerce – John Henderson	h. Library – John Molendyke
d. Headwaters RC&D – Joseph Callahan	i. Planning Board – Dick Bauman
e. Historic Preservation – Curt Fjelstad	j. Youth Board – Jackie Greenwood
7. **Continued Business (continued or tabled)**
 - a. Ordinance 2023-10 2nd Reading: Historic Preservation – Jordan
8. **New Business Items - The Council will act on each item after accepting public comments.**
 - a. Skatepark Volunteer Appreciation Award – Cyndi and Mayor Jess
 - b. Water Rights Attorney Retainer – Jordan and Trent
 - c. Family Dollar and Cutler Bros Liquor License Approval – Jordan
 - d. Resolution 2023-R-5: Breanna Rome Memorial Park Access Authorization – Jordan
 - e. MSU Extension Local Government Center Training: July 17th (2nd Council) at 5:30 PM – Jordan
 - f. Treasurer's Report | June Claims – Stan Glovan. Receive the informational report.
Accept the recommendation from the Finance Committee and approve the claims.

9. Schedule of Committee Meetings – Tentative until confirmed by Committee Chairs.

- Economic Growth & Dev – July 5th at 5pm
- Board of Adjustments – July 10th at 12:00pm
- Finance – July 10th at 4PM
- Public Health & Safety – July 13th at 5pm
- Planning Board – July 17th at 10am
- Council #2 – July 17th at 5:30pm (MSU Training)
- City Council Operations – JULY MEETING CANCELLED
- City/County Meeting(County Host)- July 19th at 5:30pm (if needed)
- Public Works – July 25th at 5pm

10. Mayor and Council Concerns: (ONLY Concerns that are not on Business Items). This is a time when Council Members or Mayor can bring a concern before the Council that is not otherwise listed on the Agenda. NO action can be taken at this time. If action is necessary, the item is put on the next meeting agenda.

11. Next Meeting Announcement(s)

- a. Regular Meeting: July 17, 2023 at 5:30pm – MSU TRAINING.

12. Adjournment

**Deer Lodge City Council meets at City Hall
300 Main Street, Deer Lodge, MT 59722
For Further Information Contact: Cyndi Thompson, City Clerk
cthompson@cityofdeerlodgemt.gov | 406.846.2238**

CITY COUNCIL MINUTES

The City Council met on June 20, 2023, at 6 PM | City Hall, Council Chambers

Members Present: John Henderson, John Molendyke, Jackie Greenwood, Dick Bauman, Rob Kersch, Curt Fjelstad, Gordon Pierson, Joseph Callahan

Members Absent: None

Mayor: James Jess

CAO: Jordan Green

Staff: Cyndi Thompson, Trent Freeman, Fire Chief Pierson, Police Chief Smith, Stan Glovan,

Consultants None

Guests: See sign in sheet

1. Call Meeting to Order | Pledge of Allegiance.

Mayor Jess called the meeting to order at 6 PM. All present recited the Pledge of Allegiance.

2. Public Comment - Members of the audience may comment on any non-agenda. State Statute prohibits the City Council from discussing any introduced item. The Council limits each person to three minutes to ensure there is sufficient time for all comments. The Council respects all comments and will have staff follow up any questions.

- a. Greg Larkins: Senior meal program starting back up. County Jail lunch program is in the process, July 3rd meals on wheels, and July 17th dining room congregate program.

3. Approval of Minutes

- a. Regular Meeting: June 5, 2023

Member Kersch motioned to approve as presented. Member Pierson seconded the motion. 7 Ayes, 0 Nos, 1 Abstained. Motion passed.

4. Public Hearing.

- a. Request for Abandonment of City-owned Property:

Alley between Grant Kohr's Ranch and Properties Owned by Three City Residents – Jordan

- a. Action Item: Vote on Approval of Abandonment and Authorize the Applicants to Continue the Survey Process

This request was reviewed by the Public Works Committee for the Abandonment of City-owned Property and was recommended by City Council to a Public Hearing at their June 5th meeting with a vote 7 to 0 with one absence.

Jerry and Debra Persons, Kathryn Mitchell, and David Roberts, all residents of the City of Deer Lodge, each submitted a Request for Abandonment of City Owned Property to City Hall on September 6, 2022. The applicants request that the city abandon and deed to them the City alley rights-of-way between their properties and Grant Kohr's Ranch National Historic Site (GKRO) (see exhibit below). The purpose of said abandonment request is to be able to aggregate the abandoned land into their properties.

The sell prices were calculated as an average of the value per square foot of the applicant's properties. The adjacent properties were selected on Montana Cadastral, which specifies every property's square footage. The 2022 appraisals of the land value for each property were divided by the number of square feet to calculate the value per square foot for each applicant's property. The average of these values was taken and applied to the square footage of the requested property abandonments. These calculations are shown below.

Adjacent Property	Square Feet	Land Taxable Value	Value/SF
815 W Missouri Ave	19600	29834	1.522
818 W Missouri Ave	12500	24228	1.938
Lots 10-12	9000	20830	2.314

Average value/SF	1.925
130' x 20' alleys	\$5,005
140' x 20' alleys	\$5,390

Staff Recommendation:

Staff recommends the abandonment of the City owned property as described herein to the applicants at the following values:

Jerry and Debra Persons:
\$5,005

Kathryn Mitchell:
\$5,005

David Roberts:
\$5,390

Staff also recommends the Public Works Committee and City Council require the petitioners to give to the City proof in writing from Northwest Energy that the proposed abandonments will have no impact on their ability to access the power line over the rights-of-way before the abandonment is approved.

Requiring a different sale price is at the discretion of the Public Works Committee and City Council.

Should the Council resolve to sell the property by a two-thirds vote as required by §7-8-4201(2)a, MCA, the applicants will be responsible for contracting a licensed surveyor to file a Certificate of Survey aggregating the properties and the abandoned rights-of-way, as well as a Quitclaim deed with the Powell County Clerk and Recorder. These documents must be approved by the City and be in full adherence to City of Deer Lodge subdivision review exemption requirements. All surveyors, survey review, and filing fees will be the sole cost of the applicant.

Public Hearing Opened: 6:13PM

Diana Solle: In agreement with the abandonment.

Public Hearing Closed: 6:14PM

Council President Bauman motioned to approve as presented. Member Kersch seconded the motion. 8 Ayes, 0 Nos. Motion passed.

a. Title 7 Fireworks Time Restrictions – Council Member Jackie Greenwood.

Currently, residents are allowed to use fireworks from June 30-July 3 until 10PM and on July 4 until 1AM the next day. Residents are also allowed to use fireworks on December 31 until 1AM the next day.

At the May 1st City Council meeting, Councilmember Jackie Greenwood proposed additional restrictions on the times residents are allowed to use fireworks. Councilmember Gordon Pierson motioned to send the item to the Public Health and Safety Committee. The Committee has thus provided the City Council with three alternatives concerning time restrictions.

- **Alternative 1:** No changes to the time restrictions.
- **Alternative 2:** Only permit July 3 until 10PM and on July 4 until 1AM the next day and on December 31 until 1AM the next day.
- **Alternative 3:** Only permit on July 4 until 1AM the next day and on December 31 until 1AM the next day.

This public hearing is to get information from the public, any changes won't go into effect until 2024. Copy of Fireworks Ordinance will be posted in each firework stand. No action item required at this public hearing.

Public Hearing Opened: 6:23PM: Public Support for which Alternative.

Alternative #1

Diana Solle
Lila Roberts
Brenda Edge
George Smith

Alternative #2

Steve Owens
Suzanne Callahan

Alternative #3

Greg Larkins
Cass Kayhill
Kathy Bair

Public Hearing Closed: 6:43PM

Council discussed the decimal rating of fireworks and is there a threshold City Council needs to look at in the future.

Member Callahan: Is in support of what his Ward wants to do.

Member Molendyke: After 10pm fireworks are distracting to those that have to work the next day.

Mayor Jess: Current ordinance is a good balance for everybody. In support of Alternative #1.

City will advertise the current date and time fireworks can be used for 2023. August Public Health & Safety meeting to review and discuss fireworks days and times.

- b. Ordinance 2023-10: Historic Preservation Ordinance – Jordan
 - a. Action Item: Vote on 1st Reading of Ordinance 2023-10

This had to go before a Public Hearing as this will be a change to the zoning ordinance which requires a public hearing and public comment process. Main intent to this Ordinance is implementing Historic Preservation into the City Code.

Public Hearing Opened: 7:15PM

Walter Wangerin: Positive change for business owners and not a heavy burden. Pleased it's a voluntary system. May be interested in the maintenance and repairs at the historical guidelines level.

Roni Wangerin: Town needs to realize Main Street is really struggling. In support of Historical Preservation.

Steve Owen: Discussed the importance of the Board, how much money they bring in per year, and how best to maintain the historic look of Main Street.

Kathy Bair: She is on the Board of Historic Preservation. Historic Preservation can only do the façade of a building and it's important to keep the historical look of a building.

Greg Larkins: Discussed the importance of communication for the Community/Property Owners to have with the Historic Preservation Commission. Is in support of this.

Public Hearing Closed: 7:30PM

Member Fjelstad Titled Ordinance 2023-10:

A ZONING ORDINANCE BY THE DEER LODGE CITY COUNCIL TO AMEND TITLE 11: ZONING OF THE CITY OF DEER LODGE CODE OF ORDINANCES TO PROVIDE FOR ORDINANCES RELATED TO HISTORIC PRESERVATION

Member Kersch motioned to approve as presented. Member Molendyke seconded the motion. 8 Ayes, 0 Nos. Motion passed.

5. Department Reports: *Composed Reports are in the packets. Reports accepted as presented.*

a. CAO | b. Public Works | c. Police | d. Fire | e. Code Enforcement | f. Recreation Program

6. Mayor & Council Concerns: *(ONLY Concerns that are not on Business Items). This is a time when Council Members or Mayor can bring a concern before the Council that is not otherwise listed on the Agenda. NO action can be taken at this time. If action is necessary, the item is put on the next meeting agenda.*

- a. Member Callahan: Old 4B's sold and will become a new Bar & Casino. Discussed setting a city restriction of how many bars & casinos are allowed within the city.
- b. Mayor Jess: Date change to next Council meeting will be held July 10th instead of July 3rd due to the 4th of July holiday.

7. Continued Business - *The Council will act on each item after accepting public comments.*

- a. Ordinance 2023-9: 2nd Reading Other Marijuana Business Types Zoning and Regulations – Jordan – **Tabled June 5, 2023**

Member Henderson motioned to remove item from table as this was table at Council meeting June 5, 2023. Member Fjelstad seconded the motion. 8 Ayes, 0 Nos. Motion passed.

Member Henderson Titled Ordinance 2023-9 2nd Reading:

A ZONING ORDINANCE BY THE DEER LODGE CITY COUNCIL TO CREATE ZONING REQUIREMENTS FOR CULTIVATOR, MANUFACTURING, AND TESTING LABORATORY MARIJUANA BUSINESSES, AS WELL AS PROVIDE LOCAL REQUIREMENTS FOR LICENSING OF SAID BUSINESSES PURSUANT TO 16-12-207, MCA.

Jordan reached out to other local cities and received comment back from Missoula's Wastewater Lab & Pretreatment Manager Nate Gordan. He concluded that the volume and nutrient concentration of wastewater were not a threat to the process at their treatment plant.

Should Deer Lodge receive a cultivation operation, City will watch for any levels of contamination to the treatment plant.

Member Fjelstad motioned to approve Ordinance 2023-9 2nd Reading as presented. Member Callahan seconded the motion. 8 Ayes, 0 Nos. Motion passed.

8. New Business: (Old Business or Tabled Items)

a. Award of Plaques to Deer Lodge Police Officers – Mayor Jess

Police Chief Smith introduced new Police Officer Bill Denend. Police Chief Smith awarded Tom Malcomb and Ron Slauson for their life saving measures through Narcan and CPR.

b. Liquor License Approvals – Jordan

Received all renewals except Family Dollar as they were sent several notices for renewal. This will result in Family Dollar locking up all beer and wine till their liquor license is approved at the next council meeting.

Member Greenwood motioned to approve as presented. Member Callahan seconded the motion. 8 Ayes, 0 Nos. Motion passed.

c. Resolution 2023-R-4: Authorization for County Election Administrator to Conduct 2023 Elections – Jordan

Two Aldermen in Ward 1, one Alderman in Ward 2, one Alderman in Ward 3, and two Alderman in Ward 4 of the City of Deer Lodge will expire on December 31, 2023. Individuals elected as Alderman in Ward 1 (one of two) and in Ward 4 (one of two) will serve a term of two years; and individuals elected as Alderman in Ward 1 (one of two), Ward 2, Ward 3, and Ward 4 (one of two) will serve terms of four years.

Member Bauman Titled Resolution 2023-R-4

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEER LODGE, MONTANA ACKNOWLEDGING THE HOLDING OF MUNICIPAL ELECTIONS IN 2023.

Member Kersch motioned to approve as presented. Member Greenwood seconded the motion 8 Ayes, 0 Nos. Motion passed.

d. Emery Road Pasture Lease to Wade and Lonnie Murphy – Jordan

Two year Lease of City owned property on Emery Road for pasture ground at \$1,200 per year. There has been interest from other parties and therefore will now need to go before a bid process.

This will go to Public Works in July to start the bid process and to publicly notice.

Member Greenwood motioned to forward this item to Public Works to start the bid process. Member Kersch seconded the motion. 8 Ayes, 0 No. Motion passed.

9. Next Meeting Announcement:

- a. Regular Meeting – Monday June 3rd 10, 2023, at 6pm in City Hall– Closed Tuesday July 4th
- b. City/County Meeting Wednesday, July 19, 2023 at 5:30pm – County Host

10. Adjournment

Mayor Jess adjourned the meeting at 8:13PM.

Prepared By: Cyndi Thompson, City Clerk

James Jess, Mayor

Date



COUNCIL COMMITTEE REPORT

JUNE 2023

Finance – Dick Bauman (Chairperson)

June 5th –

Economic Growth & Development – John Henderson (Chairperson)

June 7th –

- **Public Comment** – Greg Larkin suggested that the EG&D study Butte's success with 2 new companies coming in.
- **Continued Business** – *Main St. Banners* – No update.
- **New Business** – *Arrowstone Park Billboard* – The Committee approved the message (D.L. Welcomes You) and given Jordan permission to pick the picture. *Main Street Painting Application* – The application was approved by the committee with couple changes.
- **Committee Comments or Concerns** – Member Bauman reported that over 500 people attended the Grand Opening of the new exhibit building at the museum. Jordan gave updates on the Living Local App, Member Bauman suggested that the EG&D should be more directly involved with the community survey.
- Next meeting is scheduled for July 5th, 2023, at 5:00 PM

Council Ops – Rob Kersch (Chairperson)

June 12th Identified possible council training dates for training by the MSU Local Government Center. CAO will follow up with MSU LG for scheduling.

Public Health & Safety – Joseph Callahan (Chairperson)

June 8th

Public Works – Gordon Pierson (Chairperson)

June 22nd - NO MEETING – NOTHING TO REPORT

ORDINANCE 2023-10

A ZONING ORDINANCE BY THE DEER LODGE CITY COUNCIL TO AMEND TITLE 11: ZONING OF THE CITY OF DEER LODGE CODE OF ORDINANCES TO PROVIDE FOR ORDINANCES RELATED TO HISTORIC PRESERVATION

IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER LODGE, MONTANA:

WHEREAS, the City of Deer Lodge Planning Board has the responsibility to review zoning regulations for the City of Deer Lodge; and

WHEREAS, the Historic Preservation Commission and the Planning Board identified the need to update and provide further language to Title 11: Zoning related to Historic Preservation in Deer Lodge and the roll of the Historic Preservation Commission; and

WHEREAS, the Historic Preservation Commission reviewed the draft ordinance and recommended to forward the ordinance to the Planning Board at their March 8, 2023 meeting; and

WHEREAS, the Planning Board discussed the proposed zoning amendments at their April 17, 2023 meeting, and determined through a vote of six to zero with one absent forward the proposed zoning amendments to the City Council; and

WHEREAS, the Deer Lodge City Council discussed the proposed zoning amendments at their May 1, 2023 meeting and elected to send the proposed zoning amendments to public hearing through a vote of six to zero with two members absent; and

WHEREAS, the Deer Lodge City Council conducted a duly noticed public hearing at their regularly scheduled Council meeting on June 20, 2023 at 6:00 PM to accept comments regarding the proposed Ordinance 2023-10, which contained the propositions forwarded by the Planning Board from their April 17, 2023 meeting; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DEER LODGE MONTANA:

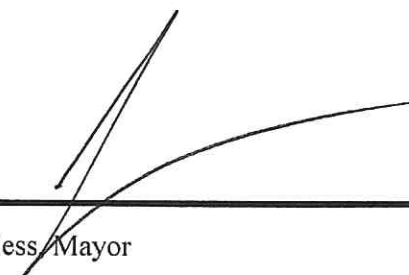
Title 11: Zoning of the City of Deer Lodge Code of Ordinances is hereby amended to provide further language related to Historic Preservation in Deer Lodge and the roll of the Historic Preservation Commission.

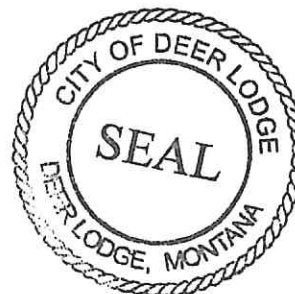
The language of the amendments is provided in Attachment "A" of this Ordinance 2023-10 and is incorporated herein.

SEVERABILITY. If any selection, subsection, sentence, clause, phrase, or word of Ordinance 2023-10 is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance 2023-10 and each section, subsection, sentence, clause, phrase, and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or words have been declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.


Passed and approved by the City Council of the City of Deer Lodge, Montana on first reading at a regular Council meeting this 20th day of June, 2023.

Council Member	Yea	Nay	Abstain/Present	Absent
Dick Bauman Council President	X			
Joseph Callahan	X			
Curt Fjelstad	X			
Jackie Greenwood	X			
John Henderson	X			
Robert Kersch	X			
John Molendyke	X			
Gordon Pierson	X			
James Jess Mayor				


James Jess, Mayor



Attest:


Cyndi Thompson, City Clerk

Passed and approved by the City Council of the City of Deer Lodge, Montana on final reading at a regular Council meeting this 3rd day of July, 2023.

Council Member	Yea	Nay	Abstain/Present	Absent
Dick Bauman Council President				
Joseph Callahan				
Curt Fjelstad				
Jackie Greenwood				
John Henderson				
Robert Kersch				
John Molendyke				
Gordon Pierson				
James Jess Mayor				

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

The effective date of Ordinance 2023-10 is August 4, 2023



P.O. Box 104
Helena, MT 59624
Main 406.317.7220
Fax 406.317.7221

A Professional
Law Corporation

John E. Bloomquist
Attorney at Law
Direct 406.410.5020
JBloomquist@parsonsbehle.com

June 16, 2023

Via Email

City of Deer Lodge
Attn: Mayor James Jess
Attn: Jordan Green
300 Main St.
Deer Lodge, MT 59722
jjess@cityofdeerlodgemt.gov
jgreen@cityofdeerlodgemt.gov

Scope and Terms of Representation by Parsons Behle & Latimer

Dear Messrs. Jess and Green,

Thank you for allowing Parsons Behle & Latimer the opportunity to represent City of Deer Lodge ("you"). This letter confirms the scope and terms our engagement.

I. Scope of Work.

It is my understanding that we will represent you regarding Montana Water Court adjudication proceedings in Basin 76G, specifically adjudication of the City's water right claims included under the Basin 76G Preliminary Decree. Unless instructed otherwise, we will work directly with Jordan Green and will take our instructions from Jordan Green on this matter.

II. Agreement as to Fees and Costs.

Work on this matter will be billed at our customary rates. I will be primarily responsible for this matter. My current billing rate is \$300.00 per hour. Betsy Story will assist in the matter. Her billing rate is \$250.00 per hour. We will endeavor to perform services as economically as possible, but may delegate certain responsibilities to other attorneys, paralegals, or employees of Parsons with different billing rates, as needed to provide services to you. Parsons increases hourly rates periodically, including for services provided to you.

A retainer of \$1,000.00 is requested before any work on this matter can be performed. This retainer will be placed in trust and will be held in trust until the completion of our representation on the matter, at which time it will be applied against any open invoices and any remaining balance in trust will then be returned to you. The retainer may also be applied, at our discretion, toward

invoices not paid when due. If the retainer is so applied, you agree to replenish the retainer to the agreed upon level upon request. Provided all outstanding invoices have been paid, any unapplied retainer will be returned to you upon completion of this engagement. The retainer can be paid by check, wire transfer, ACH, or credit card. Please call (801) 536-6637 to make a payment or utilize our client payment portal available on our website at www.parsonsbehle.com. A retainer invoice is included with this letter.

Statements for services rendered will be mailed or emailed to you monthly. You may pay your invoice by check, credit card, wire transfer, or ACH payment, and may access our client payment portal through our website. We expect prompt payment following receipt of each statement.

Parsons reserves the right to terminate providing service to any client who does not pay in a timely manner. Parsons will not perform new work for any client who has an account receivable of 90 days or older. A late charge will be imposed on any billed amounts that remain unpaid after 30 days equal to 1.5% per month. Notwithstanding anything contained in this engagement letter to the contrary, if the rate of interest is deemed to be contrary to applicable laws, then the applicable interest rate shall be the highest rate of interest that may be collected under applicable laws at the time. The firm reserves the right to claim an attorney's lien pursuant applicable state law describing and allowing an attorney's lien. If you have questions about this authority, please contact us and we can direct you to the applicable state statute.

Parsons bills clients a fee for certain expenses such as electronic research through Westlaw, our online research vendor, facsimile charges, photocopying, internal document database management, internal messenger service, and other appropriate items that will be identified and charged as they are incurred. Attached is a fee schedule setting forth the most commonly billed expenses. These fees may be adjusted from time-to-time, and by execution of this engagement letter, you agree to pay the fees if and when they are adjusted.

Parsons also bills clients for expenses paid to third parties, including, but not limited to, postage expenses, transportation costs, travel related expenses, filing fees, service of process fees, outside messenger fees, expert witness or consultant fees, outside copy charges, or electronic discovery vendor charges. The cost of these expenses will be passed on to you and will be itemized on your monthly statements. By execution of this engagement letter, you agree to reimburse Parsons the amount of these expenses.

III. Conflicts of Interest.

A review of our records indicates that we have no current conflict of interest associated with undertaking this representation. If a conflict arises in the future such that it becomes necessary for us to withdraw, we will provide appropriate assistance to you in obtaining new representation. If in the future you become aware of any facts that suggest a conflict of interest exists, please call it to our attention promptly.

Given the limited engagement described in Section I (entitled "Scope of Work"), our firm needs to take precautions allowed by the applicable Rules of Professional Conduct to protect the

ability of our many lawyers to continue serving their existing and future clients on future, unrelated matters. Our retention in this matter is based on our mutual understanding that you hereby waive all future conflicts arising out of any matter, including a litigation matter, which is not substantially related to this engagement. This waiver only applies in situations where we can staff the adverse matter with lawyers who have not worked on your matter and where we can also establish a confidentiality screen to prevent the lawyers working on the adverse matter from gaining access to any confidential information you may provide to the firm during the course of this engagement. Because of these restrictions, we are confident that, even if we were to undertake a representation adverse to you in an unrelated matter, there would be no impairment to our ability to continue to provide you with competent and diligent representation in this engagement.

Although you may revoke this waiver as to future matters at any time, that revocation will not affect any matters undertaken by the firm prior to receipt of notice of the revocation of the waiver. Under that scenario, to the extent allowed by the applicable Rules of Professional Conduct, you consent to us withdrawing from representing you if that is necessary for us to continue representing other clients, and we would assist you in transferring your matter to other counsel.

Should you have any questions about our request for this limited waiver of future conflicts, we invite and encourage you to seek legal advice on this matter from independent counsel of your choosing.

IV. Preservation of Documents and Information.

As this dispute is reasonably expected to result in litigation, City of Deer Lodge is under an obligation not to alter, destroy, dispose of, or otherwise tamper with any evidence that may be relevant or admissible as evidence, or any evidence or information that is reasonably likely to lead to the discovery of admissible evidence in this matter, and to take reasonable steps to preserve and protect that evidence. This obligation extends not only to hard copy documentation, but also to electronically stored information including, but not limited to, emails, attachments, computer printouts, computer tapes, and electronic memory devices containing any documents, spreadsheets, summaries, and similar materials. In the event any emails, documents, or any other data containing information regarding potential claims and defenses reside on the hard drives of any computers owned, used, accessed, or maintained by City of Deer Lodge or its employees, agents or representatives, you are also under an obligation to collect and preserve that evidence as well.

V. Communication.

Correspondence, records, copies of agreements, and any other relevant documents will be forwarded to you unless instructed otherwise. All files maintained by the firm and pertaining to you in the progress of any given matter are open for your inspection at any reasonable time. I will keep you informed regarding the status of any matter in which you are involved, but you should feel free to call me any time with questions or concerns. Please understand, however, that we cannot and do not guarantee the outcome of this matter, as the litigation process necessarily involves risk and uncertainty.

Your communications with the firm are confidential and generally protected by the attorney-client privilege, provided reasonable steps are taken to maintain the confidentiality of those communications. However, email and text messages may not be secure forms of communication unless encrypted or other privacy safeguards are in place. The firm's email system is capable of receiving and transmitting encrypted email via the Transport Layer Security (TLS) protocol. If you wish to communicate with us through this encryption protocol, please advise me so that we may ensure that the protocol is in place. Please call me if you desire further information on encryption in order to make a fully informed decision. We also recommend that you use passwords and encryption methods to secure your electronic and mobile devices, and take reasonable precautions in handling hard copies of confidential documents and communications including providing those only to persons on a 'need to know' basis.

All documents, records, and files, including any emails and electronic documents, created, stored or that otherwise come into the firm's possession during the course of this representation are subject to the firm's document retention and destruction policy. Accordingly, those documents, records, and files are subject to destruction eight years after the conclusion of the matter, unless (i) you request possession of such documents, records or files before the documents are scheduled to be destroyed, or (ii) you request that those documents, records, or files be destroyed earlier.

The firm adheres to the governing rules of civility and professional conduct applicable to this engagement and any related litigation. A copy of the applicable rules of professional conduct can be provided to you at your request. Accordingly, we reserve the right to grant accommodations to other counsel in all matters not directly affecting the merits of the case or prejudicing your substantive rights (e.g., scheduling, continuances, extensions, etc.).

VI. Confirmation of Agreement.

If the foregoing accurately reflects your understanding regarding representation by Parsons on your behalf, please sign, date, and return to me. This agreement will not take effect and the firm will have no obligation to provide legal services until we receive a signed copy of the letter and the agreed upon retainer has been paid.

Thank you again for retaining us in this matter. If you have any questions, please feel free to call me at 406.410.5020.

June 16, 2023
Page Five

Cordially yours,

PARSONS BEHLE & LATIMER

/s/ John E. Bloomquist
John E. Bloomquist
Attorney at Law

JEB:ao

Cc: Peter Elverum
Via email only: peter@elverumlaw.com

The foregoing letter has been reviewed and the terms agreed to by City of Deer Lodge this
_____ day of _____, 2023.

RECEIVED, ACCEPTED AND AGREED:

City of Deer Lodge

James Jess, Authorized Person



Parsons Behle & Latimer Cost Schedule (2023)

General Administrative		
Photocopies	\$0.15	per page
Oversized copies Black and White	\$1.00	Per Sq Ft
Oversized copies Color	\$ 10.00	Per Sq Ft
Color copies	\$0.80	per page
Blowback printing	\$0.10	page
Facsimiles	\$0.15	per page
Binding	\$1.25 - 1.50	per presentation/brief
Binders (varies by size)	\$4.00 - 30.00	each
Messenger service (varies by zone)	\$7.50 - 40.00	each
Return check fee	\$25.00	each
Wire Fee	\$30.00	per transaction
Practice Support		
CD copying	\$10.00	each
DVD copying	\$15.00	each
USB Drive (8 GB USB – 64 GB USB)	\$25.00 - \$55.00	each
External Hard Drive (500 GB – 1 TB)	\$125 - \$150	each
External Hard Drive (2 TB)	\$175	
Scanning paper documents for case management system	\$0.15	per page
Color scanning for case management system	\$0.75	per page
Optical character recognition of imaged documents for case management system	\$0.025	per page
Electronic endorsement - Bates numbering of imaged documents for case management system for each endorsement (Bates, Designation and Special Designation)	\$0.02	per page
Electronic designation endorsements for each document	\$0.02	per page
Document Unitization (per Doc fee is in addition to PM time, and GBs Extracting/Processing)	\$0.10	Per Doc Created
Data Extract/Processing (< 1 – 30 MB)	\$10.00	Each
Data Extract/Processing (> 31 – 100 MB)	\$20.00	Each
Data Extract/Processing (> 100 MB (>.100GB)	\$85.00	Per GB
Data Extract/Processing (Early Case Assessment plus PM Search Time) (Exported Searched Data)	\$50.00	Per GB
Exports/Production from Ipro Eclipse (<1 MB And < 50 Docs)	\$10.00	Each
Exports/Production from Ipro Eclipse (1 - 14.9 MB)	\$25.00	Each
Exports/Production from Ipro Eclipse (15 - 74.9 MB)	\$50.00	Each
Exports/Production from Ipro Eclipse (75 - 449.9 MB)	\$75.00	Each
Exports/Production from Ipro Eclipse (> 450 MB)	\$85.00	Per GB
Project Management Time (Assist, Prepare, Manual Bates, Create, Redact, Review, and Update)	\$95 - \$160.00	Per Hour
B/W Image Printing from database	\$0.10	per page

Parsons Behle & Latimer Cost Schedule (2023)

Color Image Printing from database	\$0.55	per page
External user login for case management system (for use by experts, in-house teams, or outside co-counsel)	\$25.00	per login
Electronic Research (Westlaw)		
Searches	\$60.00	per search (all included databases)
Key Cite	No charge	
FIND transactions (cases, statutes, articles)	No charge	
All document displays	No charge	
Printing, emailing or downloading (including reporter images)	No charge	
Briefs or other pleadings or orders	No charge	
Secondary sources (treatises, ALR, AmJur2d, CJS, Restatements, Law Reviews) within contract	No charge	
Excluded content (treatises, premium content)	Standard Westlaw Retail Rates	
Miscellaneous		
Trademark Search	\$100.00	each
Exhibit Preparation	\$40.00	each
Downloaded documents from online court dockets	\$2.50	document
Technical setup up / courtroom technology setup	\$55.00	per hour



A Professional
Law Corporation

P.O. Box 104
Helena, MT 59624
Phone: 406.317.7220
Fax: 406.317.7221
Parsonsbehle.com

City of Deer Lodge
Attn: Jordan Green
300 Main St.
Deer Lodge, MT 59722

June 16, 2023
TAX ID NO.: 87-0279766

RETAINER INVOICE

REGARDING: Montana Water Court adjudication proceedings in Basin 76G.

You can mail payment to our office or pay your retainer online. [Payments \(parsonsbehle.com\)](https://parsonsbehle.com). Select "Pay/Replenish Montana Retainer".

TOTAL AMOUNT DUE:

\$ 1,000.00

PLEASE RETURN A COPY WITH PAYMENT



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TOTAL AMOUNT DUE: \$ 1,000.00

Business Type Codes

Business Types: BEVERAGE BEVERAGE LICENSE

Page 1

Business Type Code	Description	Physical Address
Business Person in Charge		
BEVERAGE	BEVERAGE LICENSE	
CUTLER BROTHERS PRODUCTIONS LLC - BEVERAGE	301 MAIN ST	
KELLY CUTLER, JERI ANNE & ALBERT CUTLER	DEER LODGE MT 59722	
4B'S ORIGINAL CAFE - BEVERAGE	819 MAIN STREET	
4B'S ORIGINAL CAFE - BEVERAGE	DEER LODGE MT 59722	
FAMILY DOLLAR - BEVERAGE	1002 BUCKSKIN DRIVE	
FAMILY DOLLAR - BEVERAGE	DEER LODGE MT 59722	

> still being transferred

TOTAL DELINQUENT BUSINESSES

3

RESOLUTION 2023-R-5

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEER LODGE, MONTANA ALLOWING THE BREANNA ROME MEMORIAL FOUNDATION TO ACCESS AND IMPROVE THE CITY OWNED PARCELS LOCATED AT 100 MAIN STREET AND 102 MAIN STREET FOR THE PURPOSE OF CREATING A MEMORIAL PARK.

WHEREAS, the City of Deer Lodge purchased two parcels located within Deer Lodge using a FEMA Pre-Disaster Mitigation grant for the purpose of removing existing structures and increasing floodplain capacity along the Cottonwood Creek Corridor; and

WHEREAS, the two City-owned parcels are addressed as 100 Main Street and 102 Main Street and are located in Block 1 of the Fairview Addition of Deer Lodge; and

WHEREAS, the City of Deer Lodge Parks and Trails Master Plan, adopted June 1, 2021, identified these parcels as potential locations for pocket parks along the Cottonwood Creek Corridor; and

WHEREAS, the City of Deer Lodge intends to continue the purchase of flood-prone properties along the Cottonwood Creek Corridor using FEMA Pre-Disaster Mitigation grants to remove existing structures, and the City of Deer Lodge intends to connect these open space areas as a network of parks and trails along Cottonwood Creek; and

WHEREAS, the Breanna Rome Memorial Foundation was established as a nonprofit entity in December 2022, following the untimely death of Breanna Arae Rome, for the purpose of continuing the legacy of Breanna Rome through fundraising, scholarships, and memorialization; and

WHEREAS, the Breanna Rome Memorial Foundation intends to create a memorial park for those who have lost loved ones and for the benefit of the community at large; and

WHEREAS, the Foundation approached the City of Deer Lodge requesting the authorization to access and improve the City-owned parcels at 100 Main Street and 102 Main Street; and

WHEREAS, the City of Deer Lodge City Council heard and discussed the request at their May 15, 2023 regular meeting and, following discussion, voted unanimously to authorize the Foundation to access and improve the City-owned parcels; and

NOW, THEREFORE, LET IT BE RESOLVED, that the Breanna Rome Memorial Foundation and the City of Deer Lodge enter into agreement following the terms of this Resolution 2023-R-5 to create a memorial park at the parcels addressed 100 Main Street and 102 Main Street. The terms of the agreement are as follows:

City of Deer Lodge Obligations:

1. The City agrees to allow the Breanna Rome Memorial Foundation and its representatives to access and improve the properties located at 100 Main Street and 102 Main Street for the purpose of creating a memorial park.
2. The City agrees to provide and maintain water for irrigation at the park using existing water service lines and will not charge the foundation for the use of water at the memorial park.
3. The City agrees to allow public access and public use to the park and its amenities.
4. The City agrees to provide and maintain property and liability insurance at the memorial park.
5. The City agrees to work with the Breanna Rome Memorial Foundation to provide adequate access to the memorial park.
6. The City agrees to provide garbage removal services to the park and will not charge the foundation for the placement of garbage receptacles or removal of garbage.

Breanna Rome Memorial Foundation Obligations:

1. The Breanna Rome Memorial Foundation agrees to access and improve the parcels for the sole purpose of creating a memorial park for the benefit of the community. These improvements include, but are not limited to installing benches, tables, and fences, planting vegetation, and creating public art.
2. The Foundation agrees to maintain the improvements that it creates and to keep the park irrigated and free from noxious weeds, accumulation of garbage, and unkempt vegetation.
3. The Foundation agrees to request additional improvements not identified in this Resolution in writing from the City of Deer Lodge and will not carry out those improvements until it gains approval from the City Council.
4. The Foundation agrees to follow and uphold in perpetuity all City of Deer Lodge Codes and Ordinances during the implementation of park improvements and maintenance of the park.
5. The Foundation agrees to obtain Floodplain Development Permits from the City of Deer Lodge for any improvements that require permitting through the City Floodplain Ordinance. The Foundation further agrees to not perform any improvements that are in violation of the City of Deer Lodge Floodplain Ordinance.
6. The Foundation agrees that this memorial park will be for the benefit of the public and will not discriminate or attempt to remove any person on the basis of a protected class.

Passed and approved this 10th day of July, 2023 at a regular session by the Deer Lodge City Council. The effective date of Resolution 2023-R-5 is July 10, 2023.

Council Member	Yea	Nay	Abstain/Present	Absent
Dick Bauman				
Joseph Callahan				
Curt Fjelstad				
Jackie Greenwood				
John Henderson				
Robert Kersch				
John Molendyke				
Gordon Pierson				
James Jess Mayor				

James Jess, Mayor

Attest:

Cyndi Thompson, City Clerk

The effective date of Resolution 2023-R-5 is July 10, 2023.

City Council - July 10, 2023

Financial Summary

June 2023

Atypical Revenues	Purpose	Fund	Amount
Nothing to report			\$0.00
Completed Projects	Grant Funded	City Funded	Final Cost
Nothing to report			\$0.00
Atypical Claims	Purpose	Fund	Amount
S&N Concrete	Patch Main Street	2510	\$5,821.20
Stahly Engineering	2023 Street Maintenance	2510	\$246,829.75
Great West Engineering	Growth Policy Update	1000/2510/5210/5	
		310/5410	\$11,835.95
Neely Electric	Rewire train @ WWTP	5310	\$8,645.70

Payables			
		Claims	\$426,845.51
		Payroll	\$156,321.19
		Total	\$583,166.70

A motion to approve payment of the claims is requested.

CITY OF DEER LODGE
Claims by Vendor Report
For the Accounting Period: 6/23

Vendor Name	Claim #	Date Accepted	Amount
DEMCO	11791	06/23/23	\$269.23
POWELL COUNTY CLERK	11763	06/20/23	\$5,112.95
POWELL COUNTY CLERK	11764	06/20/23	\$4,366.58
POWELL COUNTY CLERK	11765	06/20/23	\$4,931.64
POWELL COUNTY CLERK	11766	06/20/23	\$3,482.27
CENTURY LINK	11762	06/20/23	\$85.10
ROME ENTERPRISES 027545	11758	06/30/23	\$592.28
NAPA AUTO PARTS	11757	06/30/23	\$877.96
SILVER STATE POST	11793	06/23/23	\$55.00
NORTHWESTERN ENERGY	11754	06/29/23	\$23,866.70
NORTHWEST PIPE FITTINGS, INC.	11776	06/21/23	\$808.78
CITY OF DEER LODGE ASSIGNEE	11747	06/12/23	\$153.02
MONTANA BROOM & BRUSH SUPPLY	11756	07/03/23	\$478.98
NORMONT EQUIPMENT CO.	11830	07/05/23	\$416.35
VALLEY FOODS	11824	07/03/23	\$481.90
MONTANA LEAGUE OF CITIES AND TOWNS	11835	07/05/23	\$1,483.07
R & C LUMBER, INC.	11771	06/30/23	\$1,253.19
RENNFIELD METALS	11774	06/21/23	\$130.00
HEADWATERS RC&D AREA, INC.	11782	06/22/23	\$1,540.76
UTILITIES UNDERGROUND LOCATION CENTER	11834	07/05/23	\$94.20
WEST SIDE DITCH COMPANY, INC.	11800	06/29/23	\$600.00
LOCAL GOVERNMENT SERVICES	11787	06/22/23	\$130.00
DEER LODGE FIRE RELIEF ASSOCIATION	11799	06/29/23	\$1,128.00
ENERGY LABORATORIES, INC.	11755	06/30/23	\$6,344.00
LES SCHWAB	11798	06/28/23	\$174.18
FICKLER OIL COMPANY, INC.	11833	07/05/23	\$84.72
LANE & ASSOCIATES	11786	06/22/23	\$225.00
UNIVISION, INC.	11773	06/20/23	\$1,080.10
MONTANA DEPT OF LABOR & INDUSTRY	11784	06/22/23	\$31.77
CULLIGAN OF BOZEMAN - BUTTE	11827	07/03/23	\$18.00
DEPARTMENT OF REVENUE	11836	07/05/23	\$2,385.90
KOHR'S MEMORIAL LIBRARY - PETTY CASH	11815	06/29/23	\$120.41
STAPLES CREDIT PLAN	11779	06/22/23	\$184.81
UPS	11751	06/26/23	\$120.00
DeSILVA ELECTRIC, LLC	11813	06/29/23	\$2,420.00
MMCT & FOA	11822	07/05/23	\$100.00
YOUNG, ROBERT	11818	06/30/23	\$260.00
MONTANA DEPARTMENT OF CORRECTIONS	11767	06/20/23	\$1,565.00
S&N CONCRETE MATERIALS, INC	11775	06/21/23	\$5,821.20
CENTER POINT LARGE PRINT	11792	06/23/23	\$49.14
ROBERTS, DANIEL	11802	06/29/23	\$325.00
MUNICIPAL EMERGENCY SERVICES	11809	07/05/23	\$2,526.72
CHARTER COMMUNICATIONS	11768	06/20/23	\$363.94
CHARTER COMMUNICATIONS	11769	06/23/23	\$182.04
EISENBEIL, MARK	11803	06/29/23	\$70.08
WEX BANK	11752	06/21/23	\$5,798.99
NORTHWEST PARTS & EQUIPMENT	11772	06/30/23	\$1,644.97
PITNEY BOWES, INC.	11832	07/05/23	\$857.34
ROCKY MOUNTAIN PRINT SOLUTIONS, INC.	11770	06/20/23	\$585.98

PITNEY BOWES GLOBAL FINANCIAL SERVICES	11831	07/05/23	\$165.60
STAHLY ENGINEERING & ASSOCIATES, INC.	11760	07/05/23	\$246,829.75
USDA RD LOAN #92-02	11749	06/28/23	\$4,075.00
DAVID G. RAY	11828	07/05/23	\$100.00
USDA RD LOAN #92-01	11748	06/15/23	\$15,765.00
JOHNSON & ASSOCIATES, INC.	11785	06/22/23	\$85.00
USDA RD LOAN #92-04	11750	06/16/23	\$11,886.00
US BANK COMMUNITY CARD	11821	07/03/23	\$2,763.77
ELVERUM LAW FIRM, PLLC	11816	06/30/23	\$5,565.15
CORE & MAIN LP	11761	06/30/23	\$0.00
MONTANA DEPARTMENT OF CORRECTIONS	11825	07/03/23	\$126.06
GIRKY, ELISSA	11814	06/29/23	\$180.00
NEELY ELECTRIC, INC	11778	06/22/23	\$8,645.70
TRI-COUNTY MECHANICAL & ELECTRICAL	11826	07/03/23	\$1,718.88
BEAST MOWED LAWN CARE	11806	06/29/23	\$5,840.00
PRECISION GARAGE DOOR LLP	11811	06/29/23	\$662.00
GLASCO UV, LLC	11829	07/05/23	\$2,300.00
IN CONTROL, INC.	11807	06/29/23	\$9,354.46
AMBIENTE H2O, INC.	11777	06/21/23	\$267.42
NOEL, KYLER	11804	06/29/23	\$325.00
JACKSON GROUP PETERBILT	11808	06/29/23	\$0.00
KELLEY CONNECT	11759	07/05/23	\$360.40
ADAPCO	11790	06/22/23	\$3,336.40
NUEBAUER, BRAD	11805	06/29/23	\$325.00
COMMUNICATION RESOURCES, LLC	11817	06/30/23	\$358.29
COTE & ASSOCIATES CPA PLLC	11783	06/22/23	\$1,246.50
GREAT WEST ENGINEERING	11812	06/29/23	\$11,835.95
CULLUM & BROWN	11789	06/22/23	\$586.88
CULTURAL RESOURCES CONSULTING SERVICES (11788	07/03/23	\$4,675.00
A & D FIRE	11795	06/23/23	\$204.00
KYLE GROVES	11797	06/23/23	\$275.00
MALCOMB, THOMAS	11801	06/29/23	\$99.97
VIRTUAL ACADEMY	11810	06/29/23	\$345.00
REICH, SEAN	11820	06/30/23	\$186.85
CHURCHILL EQUIPMENT CO. INC.	11823	07/03/23	\$678.23
			<u>\$426,845.51</u>