

# MINUTES OF THE CITY COUNCIL OF LAUREL

March 4, 2003

A regular meeting of the City Council of the City of Laurel, Montana, was held in the Council Chambers and called to order by Mayor Bud Johnson at 6:30 p.m. on March 4, 2003.

COUNCIL MEMBERS PRESENT:            Lauren Van Roekel    Doug Poehls  
   Ken Olson                Mark Mace  
   Gay Easton             Daniel Dart  
   Dan Mears              John Oakes

COUNCIL MEMBERS ABSENT:            None

Mayor Johnson asked the council to observe a moment of silence.

Mayor Johnson led the Pledge of Allegiance to the American flag.

Mayor Johnson welcomed the audience members to the meeting.

## MINUTES:

Motion by Alderman Van Roekel to approve the minutes of the regular meeting of February 18, 2003, as presented, seconded by Alderman Mears. Motion carried 8-0.

## CORRESPONDENCE:

Laurel Senior Center: Letter of February 14, 2003 from Agnes Nordahl regarding donation.

Local Government Center: Letter of February 21, 2003 from Jane Jelinski regarding Montana Institute for Municipal Clerks, Treasurers and Finance Officers in Billings from May 4-9, 2003.

Montana Department of Commerce: Information regarding in-depth CDBG Program public facility and housing application workshops.

## CONSENT ITEMS:

- **Claims for the month of February 2003 in the amount of 632,322.15.**  
A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.
- **Approval of Payroll Register for PPE 02/16/03 totaling \$109,640.89.**
- **Receiving the Committee Reports into the Record.**  
  
--Budget/Finance Committee minutes of February 3, 2003 were presented.  
  
--Council Workshop minutes of February 25, 2003 were presented.
- **Resolutions.**  
  
**Resolution No. R03-20: A resolution adopting the Wastewater Facilities Plan.**  
  
**Resolution No. R03-21: Resolution authorizing the Mayor to sign Change Order No. 2 for the new water intake and pump station.**  
  
**Resolution No. R03-22: Resolution authorizing the Mayor to sign Change Order No. 1 for bid specifications for the garbage truck.**  
  
**Resolution No. R03-23: A resolution authorizing the Mayor to sign the union contract on behalf of the City of Laurel.**  
  
**Resolution No. R03-24: A resolution adopting a wage increase for non-union employees of the City of Laurel.**

**Resolution No. R03-25: Resolution of the City of Laurel, Montana, to increase the rates and charges for the users of the municipal water system.**

The mayor asked if there was any separation of consent items. There was none.

Motion by Alderman Olson to approve the consent items as presented, seconded by Alderman Dart. Motion carried 8-0.

**CEREMONIAL CALENDAR:**

Mayor Johnson made the following proclamation:

WHEREAS: Wednesday, March 12, 2003, marks the 91<sup>st</sup> anniversary of Girl Scouts of the United States, founded by Juliette Gordon Low in 1912 in Savannah, Georgia; and

WHEREAS: Throughout its long and distinguished history, Girl Scouts – the pre-eminent organization for girls – has inspired millions of girls with the highest ideals of character, conduct and patriotism; and

WHEREAS: Girl Scouting will lead businesses and communities to teach girls the skills needed to take active roles in math, science and technology careers and to fulfill our country's economic needs; and

WHEREAS: Through Girl Scouting, every girl, everywhere grows strong, gains self-confidence and skills for success, and learns her duty to the world around her; and

WHEREAS: Some 50 million women have enjoyed the benefits of the Girl Scout program, as an American tradition, for 91 years;

NOW, THEREFORE, I, John E. Johnson, Jr., Mayor, by virtue of the authority vested in me as Mayor of the City of Laurel, do hereby proclaim the week of March 9 – 15, 2003 as Girl Scout Week in Laurel, Montana.

**REPORTS OF BOARDS AND COMMISSIONS:** None.

**COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT):** None.

**SCHEDULED MATTERS:**

- **Confirmation of Appointments:** None.  
Current Board/Committee vacancies: Board of Appeals – two positions  
Police Commission – one position
- **Jean Kerr: Court report**

Judge Jean Kerr distributed information regarding court statistics, accounting, mid-year report for fiscal year 2002-2003, old business update, new things in the court, and future ideas.

A total of 2,249 tickets were processed in 2002, as compared to 1,216 in 2001. These tickets included criminal, civil, speeding, seatbelt, and other citations.

Court fines and forfeitures brought in \$119,186.75 in the fiscal year ending June 30, 2002. The Supreme Court levies a \$20 surcharge against every violation. From the \$20, \$15 remains here to pay for the city attorney's wages, and \$5 is sent to the Supreme Court for automation – the new computers and the Full Court system that was recently installed. The next legislative session will consider increasing the surcharge to \$25, and then \$10 would be collected for automation. Court surcharges of \$10,275 were collected. We retained \$150 of the Crime Victim's Fund money, and \$3,600 was sent to Yellowstone County. Crimes against other people are deemed a 45 Code, and an assault or DUI would also be in this category. These would have a \$25 surcharge for Crime Victim's Fund. Of that \$25, the City keeps \$1 for a processing fee. The remaining \$24 goes to the county or the city, depending upon what the situation is for the Crime Victim's Advocate funding. Since we do not have one in Laurel, the \$24 goes to the county. Jean has researched the possibility of having a Crime Victim's Fund in Laurel. Her biggest gripe with Laurel being in Yellowstone

County is that the allocated money usually sits in Billings. When she is in Billings talking and saying that we need services but we don't have any in Laurel, the common misconception is that we can drive to Billings to get them. Often they do not realize that the people needing the services do not have the transportation and do not have the funding. Jean stated that a Crime Victim's Fund Advocate is needed here. She would like to set it up this year to keep the money here. This money could be possibly a grant matching account. Once the funds build up, she would be willing to write a grant to get someone on a part-time basis to be a counselor, help fill out Orders of Protection, or whatever is needed. Stillwater and Carbon Counties share a psychologist and they split the costs. If we had the funds to do so, we could use some of those services.

The total cash in was \$129,611.75 and restitution to the City was made in the amount of \$886.50. The public defense budget was above the budgeted amount last year. According to the law, an individual has the right to representation by an attorney if there is a charge against them. If jail time would be given and the individual does not have the funds, she has to give them an attorney by law or else we could be in noncompliance. Although an individual might not have a job when she first meets them on a DUI or partner/family member assault charge, they may have a job at some point. At the end of the case, she evaluates their economic situation. If they can pay the whole amount or a portion of it, she asks for restitution for the attorney's bill. However, if she knows that people are unable to pay it, she does not ask for it.

The total cash out to run the court was \$102,219.80, which was \$4,975.80 over the budgeted amount of \$97,244. Public defense was \$5,5160.26 above the \$6,000 budgeted figure.

Jean explained the mid-year report for fiscal year 2002-2003. A total of \$71,073 has been collected for court fines so far, which is 65% of the budgeted amount. Court surcharges of \$10,385 have been collected, which is 109% of anticipated revenues. A total of \$93 of the Crime Victim's Fund money has been retained. The court is on track in all areas regarding cash out, but the pending union contract situation will change the figures.

Jean updated the council on the Metzger case regarding the MMIA and restitution to the city. Cal Metzger hit the Laurel Ambulance on July 11, 2002. He was charged with a DUI, Following another vehicle too closely, Failure to carry liability insurance, Possession of Illegal Drugs, and Possession of Drug Paraphernalia. On October 3, 2002, he pled guilty to Illegal PerSe (amended DUI), Failure to carry Liability Insurance. The rest of the charges were dropped due to a plea agreement. Part of his sentence included restitution to the City of Laurel for the ambulance repair and other costs related to this accident. The amount was not determined at that time. Jean was unable to get the dollar amounts from Jan Faught at that time. Later, MMIA got the ambulance fixed and set up a promissory note with Mr. Metzger for payment. After some questions were raised regarding the situation and discussion with City Clerk Mary Embleton and Linda Coombs from MMIA, it was determined that Mr. Metzger would pay restitution to the court as originally ordered rather than the promissory note to the MMIA. This is in the best interest of the City of Laurel. If Mr. Metzger were to declare bankruptcy before the promissory note to the MMIA were paid, he could put it in his bankruptcy amount, and the City would not receive the money. However, restitution with a court cannot be included in bankruptcy amounts, so it safeguards the City of Laurel, and the city will have much better chances of reclaiming our losses. City Court will retain jurisdiction over the restitution payments, and the City of Laurel will receive the first \$1,000 paid to reimburse us for the deductible. MMIA will then get the remaining amount of \$1,698.98 as reimbursement for their out-of-pocket expenses.

The Full Court computer system was installed in the court in December. The court clerks worked diligently during the process of installation, and they are still in the learning process. The new accounting system is great, and the auditors love it. The court now has a separate trust account, and cuts a check to the city at the end of every month.

Restitution to the city for court-appointed counsel, which was started mid-year last year, is helping to offset the bill for court-appointed counsel.

Jean will attend a Horizontal Nystagmus Gaze class next week. The class will explain how police officers use the pencil/pen to do a DUI field sobriety test. Depending on the level of impairment, there is an involuntary jerking of the eyes at the outer perimeters while attempting to follow the movement of the pencil/pen. Matt Erekson and some of the police officers will also be attending the class.

Jean's future ideas include starting a Crime Victim's Fund account. The fund would provide seed money for grants, and there are specific Women Victim Grants available.

Jean has contacted the RSVP, Retired Senior Volunteer Program, about having one or two people come in to do filing, paper shredding, and other similar jobs. The volunteers receive points for time served. Jean also asked if any volunteers would be interested in supervision of community service hours. Lack of sites and lack of supervision are the biggest problems encountered with community service. If supervisors were available, she could pair the individuals with the volunteers. Insurance issues were the biggest concern, and RSVP has an umbrella clause to provide coverage for anything not covered by the volunteer's health insurance coverage.

Jean explained that supplies can be purchased through Central Stores, and she would like to see an agreement approved to purchase from their catalog. Court has an account with the State for used goods that are going to be auctioned off, but they do not have an account with Central Stores. She will bring it to a council workshop in the future.

As an elected official, Jean made some notes that she thought needed to be brought to the council's attention. First of all, she explained how court works sometimes. A lot of people have been complaining that the court handpicks people whose names are published in the court report in the paper. Jean explained that having a deferred sentence means that the individual is complying with all requirements. If a person has a deferred sentence, their speeding ticket will not go to the paper or on their record. Jean has decided that that is a good thing, but it can also be abused. Her rule in court is that one deferred sentence is allowed. When there is a group of people in court and some of them get deferred sentences and some do not because they already received one, people start to grumble. Some people are mad because their name went in and someone else's name did not. So for clarification, sometimes they do not go in because they are not ever reported to the State but are reported as a deferred sentence. If the offender does not comply, the deferred status is gone, and the offense is reported right away. Sometimes certain parts can be deferred as well.

Jean knows that the water intake situation is the first priority right now. However, she wanted the council to know that there are still concerns regarding the court building. There was sewer gas in the building during the last jury trial, and that has occurred before. More sinking has occurred, and the cracks are bad in the bathroom and in the council chambers. They are bombarded with the flying ants every spring, and the employees still have sinus problems and think that there is a mold buildup in the building. Everyone that works on this side of the building is not always healthy. They could not stay warm during the last cold snap. After the water plant project, Jean will be questioning what will be done with this building.

Jean mentioned that her wage is dictated by ordinance, and she will be asking for a wage increase. She did not get a raise last year, and she works hard and thinks she deserves a raise.

Jean mentioned that the new administration had stated that there would be no secrets and no surprises. She felt that she needed to remark on the low morale. She knows that the union contract is starting to get situated and possibly resolution time is going to come with that. Jean spoke in behalf of people who are working here who have not been appointed, and she stated that she is not an appointed person and was not talking for herself. Jean said that there has been low morale in all departments, and she felt that she needed to bring it out on the table and say that something needs to be done. Jean stated that the court has wondered what is going on with Matt's position. Jean also stated that we need to be a unified force and trust and cohesiveness are needed.

Alderman Olson asked regarding Beta Alternatives and CORE Link. Jean stated that the court still send youth to Beta Alternatives, as that is where we have workers' comp insurance. Beta Alternatives does not come to Laurel to do intake anymore. It is not the best place for us because they are based in Billings and the sites are mainly in Billings. Core Link terminated their agreement after the contract was over because they did not like the amount of money we offered them. The court sends people to Mountain Peaks for house arrest because it is cheaper than it is at Beta Alternatives. Jean has utilized the pre-release services provided by Alternatives in some cases where people are totally out of control. If another grant were available, the court might subcontract with someone here in Laurel. If the court does not use someone in town, it seems like the vested interest is not here.

Alderman Mears asked regarding the seed money for a crime victim's fund and matching grants. Jean explained that the money would have to build up, as the money is currently sent to the county. The money would have to be allocated just for the crime victim's advocate program and could be

used as seed money for grants. She envisions having a contracted person to work once a week or on an on-call basis to meet with victims.

Alderman Dart asked regarding pending legislation as it pertains to the automation surcharge and the impacts on the court and the city. Jean said that sometimes it just adds more paperwork and responsibility. The legislative amount with the automation was set to sunset in July 2003. However, the surcharge will increase \$10, and \$5 will stay with the lower courts, which are the working courts and bring in the most revenue. Eventually, the Full Court system will allow the Supreme Court to tap in to any court to look at records.

Alderman Olson asked regarding the two-fold increase in tickets. Jean responded that the different personalities, ages, and aggressiveness of the police officers attribute to the difference.

Mayor Johnson thanked Jean.

- **Ordinance No. O03-01: Ordinance amending Chapter 17.49 of the Laurel Municipal Code relating to temporary uses in nonresidential zoning districts.** First reading.

Motion by Alderman Poehls to adopt Ordinance No. O03-01, seconded by Alderman Mace. A roll call vote was taken on the motion. All eight aldermen present voted aye. Motion carried 8-0.

The public hearing for Ordinance No. O03-01 will be on the council agenda on March 18, 2003.

- **Ordinance No. O03-02: Ordinance amending Chapter 8.04 of the Laurel Municipal Code relating to certain matter not to be placed in receptacles.** First reading.

Motion by Alderman Mace to adopt Ordinance No. O03-02, seconded by Alderman Dart. A roll call vote was taken on the motion. All eight aldermen present voted aye. Motion carried 8-0.

The public hearing for Ordinance No. O03-02 will be on the council agenda on March 18, 2003.

**ITEMS REMOVED FROM THE CONSENT AGENDA:** None.

**AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT):** None.

Donna Wegner, 1043 Montana Avenue, stated that there are three or four blind intersections in town because of huge spruce trees that obstruct the view.

Mayor Johnson asked Donna to provide the locations of the intersections so that the problem areas could be addressed.

**COUNCIL DISCUSSION:**

Mayor Johnson announced an invitation from Yellowstone Valley Electric Co-operative to a breakfast at 7:30 a.m. on Tuesday, March 18<sup>th</sup>. If anyone is interested, a response is necessary.

Mayor Johnson stated that the Montana Department of Commerce has scheduled a public meeting on Tuesday, March 11<sup>th</sup>, from noon to 1:00 p.m. at the Billings Sheraton Hotel. Affordable housing, public infrastructure, and other community development needs of low and moderate income households will be discussed.

City Attorney Matt Erekson distributed copies of his letter of resignation to the council and stated that he would continue until a replacement is found.

Alderman Oakes is taking advantage of a planning course opportunity offered by the Montana Department of Commerce. He applied for the privilege and was accepted and will be studying the on-line course.

Alderman Dart stated that he is appalled at the recent action of the 9<sup>th</sup> District Circuit Court in San Francisco as it pertains to the pledge of allegiance. He hopes everyone will be watching this because he thinks that it is important to leave it the way that it is because it is part of the fabric of this country.

Alderman Mace will attend the LEPC meeting on March 10<sup>th</sup>. He mentioned that the bus parking issue needed to be addressed. The designation for the bus stop has not been changed, but last Sunday at 2:21 p.m., he noticed that a bus had stopped directly in the traffic lane to unload passengers. He thinks that the policy needs to be followed, and cars should not be parked in the designated bus stop area.

Alderman Poehls thanked the council for those he questioned this week with the Kathy Simanton issue of the annexation on East Maryland and Yard Office Road.

Alderman Van Roekel mentioned that he had opportunity to use the services of the Laurel Police Department recently. Four officers helped him out in the situation, and it was a positive experience.

Alderman Olson recently introduced himself to NorthWestern Energy employees while they were working on a power outage.

Alderman Mears asked why Matt Erikson was resigning. Matt stated that he was not ready to comment further in this forum.

**UNSCHEDULED MATTERS:**

There being no further business to come before the council at this time, the meeting was adjourned at 7:40 p.m.

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Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 18<sup>th</sup> day of March, 2003.

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John E. Johnson, Jr., Mayor

Attest:

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Mary K. Embleton, Clerk-Treasurer