

Resolution No. R03-46: A resolution approving an agreement between the City of Laurel and Yellowstone Boys and Girls Ranch, said agreement relating to fire protection.

Resolution No. R03-47: A resolution approving agreements between the City of Laurel and Laurel Fire District No. 8, said agreements relating to fire protection.

Resolution No. R03-48: A resolution approving agreements between the City of Laurel and Laurel Fire District No. 5, said agreements relating to fire protection.

Resolution No. R03-49: Resolution authorizing the Mayor to sign Change Order No. 5 for the new water intake and pump station.

Resolution No. R03-50: Resolution to authorize submission of CDBG application and commit matching funds.

Resolution No. R03-51: Resolution to adopt the Capital Improvements Plan for grant purposes.

Resolution No. R03-53: Resolution adopting the City of Laurel Urban Design Recommendations (Streetscape).

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 Poehls. Motion carried 5-0.

CEREMONIAL CALENDAR:

POPPY DAY PROCLAMATION

WHEREAS, America is the land of freedom, preserved and protected willingly and freely by citizen soldiers;

WHEREAS, Millions who have answered the call to arms have died on the field of battle;

WHEREAS, A nation at peace must be reminded of the price of war and the debt owed to those who have died in war;

WHEREAS, The red poppy has been designated as the symbol of sacrifice of lives in all wars; and,

WHEREAS, The American Legion Auxiliary has pledged to remind America annually of this debt through the distribution of the memorial flower;

THEREFORE, I, John E. Johnson, Jr., Mayor of the City of Laurel, County of Yellowstone, Montana, do hereby proclaim this 23rd day of May, 2003, as Poppy Day and ask that all citizens pay tribute to those who have made the ultimate sacrifice in the name of freedom by wearing the Memorial Poppy on this day.

REPORTS OF BOARDS AND COMMISSIONS:

Yellowstone County Air Pollution Control Program – Russell Boschee, Program Director

Russell Boschee, the Program Director, presented the proposed changes to the Yellowstone County Air Pollution Control Program. Copies of the document explaining the proposed changes were distributed to the council before the council meeting began.

Mr. Boschee explained that this is a preliminary meeting to inform the council that this is in the works. At a later date, the council will be asked to hold a public hearing and pass a resolution to approve the changes. The document, which is rather large, had a key that explained that anything that is underlined is new material and anything that is deleted had a line through it. The last two-thirds of the document is all new material that will be added to the program.

In 1999, former Director Duganz asked the council to rescind fourteen of the program's seventeen regulations, leaving only three regulations remaining. The remaining regulations included one on voters, one on open burning, which we have done for about thirty years, and one on prohibitive material in wood and coal residential stoves. The other fourteen of the seventeen were rescinded at that time. Director Duganz retired last year, and Mr. Boschee took over as the director. He believes in local control, and when it was rescinded, the state took over these programs. He is requesting that enforcement and permitting are returned to local jurisdiction. Currently, if there is a problem of violation of any source in your area, it is handled by the State of Montana DEQ. If he investigates a case, he sends all the paper work to Helena so that they are current on every case. If a case should become a violation, the state would have to handle it. So we are going to request that be returned to the local agency, which it had traditionally been for the last twenty-five years. The second part of it is to return permitting to local control. The program currently does inspections on about thirty sources, such as Schessler Ready Mix and the Laurel East Veterinary Clinic. The permits are currently done in Helena, and they are requesting them to return that to the local agency so that companies would have one person to contact. Mr. Boschee would do the inspections, the emission inventories, and the permitting.

Russell explained some of the proposed changes. The first fifteen pages is a narrative on the local agency and their duties. The City of Laurel was one of the entities in 1969 that requested that the Air Pollution Control Agency was formed and has funded the program for thirty-two years. The information explained the authority of the program, a few definitions, and the Control Board. Mr. Boschee, the director of the agency, is hired by the Control Board, which consists of eight members from the community. The City of Laurel appoints one member and that appointment is up. L. D. Collins, who has had that position for about twenty years, has indicated that he would be moving to Oregon. The board is requesting that the city appoint a new member to the Board. He reports any potential violations or complaints to the Board and he is actually controlled by board. If the program got permitting back, they could require a nominal fee to process the permits. The changes in the first fifteen pages of the document are mostly to update the language.

The next thirty or forty pages is what the Air Pollution Control Board is going to ask the Board of Environmental Review to adopt. Public hearings will be held in front of all the entities that are involved with air pollution – the County Commissioners, City of Billings, City of Laurel, Township of Broadview, who will have an opportunity to either approve or deny the changes.

Regulation 1 is an enforcement regulation and addresses testing requirements. Regulation 2 is ambient air quality. Regulation 3 is emission standards and talks about particulate matter, dust in the air, such as crushers at Krug and Sons or Schessler Ready Mix. It gets into some incinerators and motor vehicles. Regulation 6 is merely the old open burning permit. The State had just gone through and reworked it and it had just passed the Board of Environmental Review, so this is the latest update version of open burning. Regulation 7, the permitting one, goes through how to get a permit, inspection of a permit, and various administrative requirements. That regulation was just updated by the DEQ before the Board of Environmental Review.

Mr. Boschee believes in local control. It has been about a year since he started this process, and it is now under review by the State DEQ. They have the first chance to say that the changes are approved or denied, but the DEQ will usually do what the local citizens want. That is why he is asking for support.

Alderman Poehls asked regarding the sawdust problem from Fox Lumber. Mr. Boschee stated that they are working on that case, which would fall under Regulation 3.308 Particulate Matter, Airborne. Fox Lumber was just ordered to install the fence on the south side to try to control some of their fugitive sawdust from blowing off. When Mr. Boschee took over that case a year ago, there were some misunderstandings on that. He gave them a variance to dump some sawdust on the ground for about three month, but he did not tell enough people. People thought that Fox Lumber was violating the law, but since they had given them a variance to violate that law, they really were not violating it. One of the problems he had when looking at the file was that there was not much documentation on the case. The complainants did specify dates get pictures to show the sawdust leaving the area. He has been at Fox Lumber many times and has never seen sawdust leaving their lot. Therefore, he cannot claim that it is in violation of 17.308 unless it can be verified. It has to be twenty percent over six minutes of opacity, as stated in 3.308. One section says that there must be reasonable precaution to control it, and it gives a standard by which to judge that. Right now, they have not been able to find a violation of that standard because they have not been able to witness a time where there was sawdust coming off their lot. It continues to be an active case. Once the fence is built at Fox Lumber, they will see how things go this summer, and then they have contingency plans to

continue from there. The gentleman from Helena will be here soon to do an inspection at Fox Lumber. In late November, Fox Lumber put on a bag house cyclone on the top of the hopper recovery system. It took a little bit of time before they could engineer it in, so they had to dump it on the ground again for about a month and then they had trouble getting it to work correctly. Mr. Boschee has not received very many complaints since the beginning of the year.

Alderman Oakes asked if anything could be done about the odor from livestock feed yards. Mr. Boschee said that the regulations on the state level always have an exemption for agriculture. Even Regulation 3.308, Particulate Matter, Airborne, does not apply to dust blowing off agriculture deals. The most famous case was Haggar Egg Farm east of Billings. Senator Haggar was in the legislature, and rules were written regarding agricultural operations. One item in the legislation was that an individual could not complain about an agricultural business that was located in the area before it was developed for residential. Haggar Egg Farm had been in that location for eighty years and people then started to move out into the Billings Heights. There will be similar issues here, too, as the community is growing around agricultural locations. There is a new development out by the feedlot on Laurel Airport Road, but the feedlot was there before this development, and complaints will not be valid.

Alderman Oakes stated that research is currently being done regarding whether the run-off from feedlots and animals that gets into the water system is causing some types of cancer in humans. Mr. Boschee said that it is an issue that the legislature has addressed, and he knows that it is a big concern.

Mayor Johnson thanked Russell Boschee for his presentation.

COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT): None.

SCHEDULED MATTERS:

- **Confirmation of Appointments.**

Current Board/Committee vacancies

Board of Appeals: three positions – two-year terms to begin immediately

Police Commission: one position – three-year term to begin immediately

Laurel Airport Authority: one position – five-year term to begin July 1, 2003

Library Board: one position – five-year term to begin July 1, 2003

City-County Planning Board: two positions – two-year terms to begin July 1, 2003

Air Pollution Control Board: one position – two-year term to begin July 1, 2003

Drug and Alcohol Task Force Chairman

Mayor Johnson called the council's attention to the openings on the boards and committees and asked for assistance in finding people who are interested in serving in these positions.

- **Request for approval to proceed with the annexation process for less than required amount of land for Tract B-1 of Certificate of Survey No. 2039 – Patrick Mullaney.**

Motion by Alderman Poehls to deny the request from Patrick Mullaney to proceed with the annexation process for less than the required amount of land for Tract B-1 of Certificate of Survey No. 2039, seconded by Alderman Oakes.

Alderman Poehls commented that, knowing the location of the tract, he does not feel that we need to approve something for less than the amount owned by the gentleman. Mr. Mullaney is requesting annexation of a very small portion of the property he owns, and since the city actually surrounds the land, the city could annex the whole section.

Alderman Oakes expressed his agreement with Alderman Poehls. The map showed that there are three lots in this one section, and he feels that all three of them should be annexed at the same time. Mr. Mullaney owns two lots and Mr. Metzger owns one lot.

Cal Cumin stated that Mr. Mullaney would still be under the minimum amount of land required for the annexation process if he annexed both pieces of that certificate of survey. Rather than denying the request, Cal suggested that the city require him to annex all of his property at the same time since all of his property is still less than the minimum requirement.

There was council discussion regarding amending the present motion to deny the request, whether the council had the authority to adjust the request, the three properties included in the certificate of

survey, the procedure to annex a property, prior approval of similar requests, and the possibility of a substitute motion.

Substitute motion by Alderman Poehls to approve Patrick Mullaney's request to proceed with the annexation process for less than the required amount of land contingent upon his offering both pieces of his property for annexation, seconded by Alderman Olson.

Mayor Johnson clarified that it has been moved and seconded that the request for approval to proceed with an annexation process for less than the required amount of land for Tract B-1 of Certificate of Survey No. 2039 be approved contingent on both properties owned by the applicant be considered simultaneously.

A vote was taken on the substitute motion. Motion carried 4-1, with Alderman Oakes voting nay.

- **Ordinance No. O03-03: Ordinance amending Chapter 15.04.10 of the Laurel Municipal Code relating to a Board of Appeals.** First reading.

Mayor Johnson stated that the ordinance would specify a two-year term of appointment to the Board of Appeals, rather than serving at the mayor's pleasure.

Motion by Alderman Poehls to adopt Ordinance No. O03-03, seconded by Alderman Mace. A roll call vote was taken on the motion. All five aldermen present voted aye. Motion carried 5-0.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT):

Cal Cumin stated that the annexation request from Patrick Mullaney would now go to the Planning Board. The application will become the annexation plan for the city, and the Planning Board will hold a public hearing. Cal suggested that the council ask the Planning Board to consider a recommendation for annexation of the properties owned by Mr. Mullaney and Mr. Metzger, since the properties are surrounded by the city on three sides.

Russell Boschee mentioned the Fox Lumber case again. If the case had become a problem in the past, traditionally it would have come before the council in a public hearing. Because enforcement is currently with the state, that would not happen. If there were a violation in the Fox Lumber case, it would go straight to the DEQ and the city would not be involved. Mr. Boschee stated that he thinks local control is important in order to be able to present those cases to the city council as they pertain to the City of Laurel. That is one item that is being reviewed right now.

COUNCIL DISCUSSION:

Prior to the council meeting, Mayor Johnson distributed notes that were part of the discussion and council retreat on March 2, 2002. The notes outlined a number of thoughts the council had that day. The CIP Committee will be completing the plan sometime this week or next week. This is an important process, and, as predicted, it has been a little rocky and not all details are ironed out. The CIP is a living document and, as such, we will probably develop policies to help in future processes. The committee is about halfway through the projects, and Mayor Johnson stated that he is excited that the council will get a chance to look at the very first CIP that has made it this far. The council will have the opportunity for final approval of the plan. The effort then will be to get it out into the community and receive input.

Mayor Johnson reminded the council that a couple of budgets would be reviewed on Wednesday night. The information that has been given out so far has been compiled into a booklet. He encouraged the council to be there with some comments to start giving some guidance as to thought and priorities as we try to finalize the budget of this year. This is a brand new process and is not well defined; however, Mayor Johnson thinks that some positives have come out of the process and the experience will be used as the process is repeated in the future.

Alderman Poehls mentioned that the YMCA received notice that they will lose their office space at South School and need to be out on June 9th. Please refer any suggestions regarding available office space to Alderman Poehls.

Mayor Johnson reminded the council to take their codebooks to the council secretary for the updates.

UNSCHEDULED MATTERS:

There being no further business to come before the council at this time, the meeting was adjourned at 7:18 p.m.

Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 3rd day of June, 2003.

John E. Johnson, Jr., Mayor

Attest:

Mary K. Embleton, Clerk-Treasurer