

MINUTES OF THE CITY COUNCIL OF LAUREL

October 7, 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 October 7, 2003.

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

COUNCIL MEMBERS ABSENT: Dan Mears

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

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

Mayor Johnson removed Ordinance No. O03-05 from the council agenda.

Mayor Johnson stated that the public hearing would be held for the request for annexation, zoning, and conditional use from Patrick Mullaney for Certificate of Survey No. 2039, Tracts A-1 and B-1. However, the petition has been withdrawn.

MINUTES:

Motion by Alderman Olson to approve the minutes of the regular meeting of September 16, 2003, as presented, seconded by Alderman Van Roekel. Motion carried 7-0.

CORRESPONDENCE:

Laurel Chamber of Commerce: September 2003 Newsletter.

Montana Department of Commerce: Letter of September 22, 2003, regarding Closeout – FY99 Community Development Block Grant (CDBG) City of Laurel Technical Assistance Grant #MT-CDBG-99TA-11.

Montana League of Cities and Towns: E-mail of September 24, 2003, regarding NorthWestern Electric Bills.

Dorine Gratwohl: Copy of a Letter to the Editor received September 29, 2003 regarding proposed construction on Tracts A-1 and B-1, Certificate of Survey No. 2039.

PUBLIC HEARINGS:

- **Ordinance No. O02-32: City of Laurel Municipal Sign Code.** (First reading 06/18/02; public hearing on 07/16/02; 08/06/02 – set additional public hearing for 08/20/02; public hearing on 08/20/02; continued to 09/03/02; continued to 11/19/02; continued to 01/21/03; continued to 02/18/03; continued to 08/05/03; continued to 09/02/03; continued to 10/07/03)

Mayor Johnson opened the public hearing.

Mayor Johnson asked three times if anyone wished to speak regarding the issue. No one spoke.

Mayor Johnson closed the public hearing.

The second reading of Ordinance No. O02-32 will be on the October 21, 2003, council agenda.

- **Request for annexation, zoning, and conditional use from Patrick Mullaney for Certificate of Survey No. 2039, Tracts A-1 and B-1.** (Planning Board recommended to the City Council that it advertise and hold a public hearing regarding the request for annexation, zoning, and conditional use at its October 7, 2003 council meeting. Planning Board recommended approval of the annexation/zone change and approval of the conditional use

subject to the exterior of the house, landscaping, sidewalk and fence to be completed within eighteen (18) months after City Council approval.)

Mayor Johnson opened the public hearing.

Mayor Johnson stated that the petition for annexation has been withdrawn.

Mayor Johnson asked if anyone wished to speak regarding the request for annexation, zoning, and conditional use for Certificate of Survey No. 2039, Tracts A-1 and B-1.

Cal Cumin, Laurel Planning Director, asked if the petition had been withdrawn.

A lady asked if this means that he has withdrawn his annexation request. Mayor Johnson stated that was correct. The public hearing was advertised, and the decision was made to hold the public hearing.

Mayor Johnson asked twice if anyone wished to comment.

Mayor Johnson closed the public hearing.

CONSENT ITEMS:

- **Claims for the month of September 2003 in the amount of \$758,758.50.**
A complete listing of the claims and their amounts is on file in the clerk-treasurer's office.
- **Approval of Payroll Register for PPE 09/14/03 totaling \$120,117.78.**
- **Approval of Payroll Register for PPE 09/28/03 totaling \$116,738.83.**
- **Receiving the Committee Reports into the Record.**
 - Budget/Finance Committee minutes of September 2, 2003 were presented.
 - Public Works Committee minutes of September 8, 2003 were presented.
 - Council Workshop minutes of September 23, 2003 were presented.
 - Council Workshop minutes of September 30, 2003 were presented.
 - Oversight Committee minutes of June 12, 2003 were presented.
 - Oversight Committee minutes of July 24, 2003 were presented.
 - Laurel Airport Authority minutes of July 22, 2003 were presented.
 - Laurel Airport Authority minutes of August 26, 2003 were presented.
- **Resolutions.**
 - Resolution No. R03-103: A resolution amending Resolution No. R092-42 extending the contract with Olness and Associates for auditing services through fiscal year ending June 2004 and authorizing the Mayor to sign said contract for the City of Laurel.**
 - Resolution No. R03-104: A resolution accepting a Bulletproof Vest Partnership Grant from the U.S. Department of Justice and authorizing the Mayor to sign said grant.**
 - Resolution No. R03-105: A resolution authorizing the Mayor to sign Change Order No. 8 for the new water intake project.**
 - Resolution No. R03-106: Resolution of the City of Laurel, Montana, approving certain rate adjustments.**

Resolution No. R03-107: A resolution approving Alderman Easton's continued absence from the City of Laurel.

Resolution No. R03-108: A resolution authorizing the Laurel Volunteer Ambulance Service to raise their rates.

The mayor asked if there was any separation of consent items.

Alderman Dart separated item 6.e.4), Resolution No. R03-106, from the consent agenda.

Motion by Alderman Olson to approve the consent items as presented, seconded by Alderman Poehls. Motion carried 7-0.

At this time, Mayor Johnson asked Patrick Mullaney if he was here for the public hearing.

Mr. Mullaney responded that he was.

Mayor Johnson stated that he was informed that Mr. Mullaney had withdrawn his petition, and the public hearing was closed with that information.

Mr. Mullaney stated that they were just going to delay the annexation.

Mayor Johnson stated that we are going to let the record stand as it is. The information received was that Mr. Mullaney called and asked to have it withdrawn, and as of this moment we operated on that premise. The public hearing was opened, the situation was declared, and then the public hearing was closed. We are of the opinion that the petition has been withdrawn.

Mr. Mullaney stated that was not what he was trying to convey. He said that Cal said the public hearing would be held tonight, but the land does not have to be annexed right away. And there would be another meeting the last part of October when the council would make a decision on annexation.

Mayor Johnson stated that Mr. Mullaney needed to make his wishes clearly known as to what he would like to do and then we can proceed forward. Mayor Johnson stated that a public hearing was opened momentarily with the announcement that the petition had been withdrawn. He stated that we are going to let the record stand until Mr. Mullaney's wishes are clear. The council had not been previously informed that Mr. Mullaney wanted to delay the annexation. Another public hearing could be scheduled on the request.

CEREMONIAL CALENDAR:

Mayor Johnson read a proclamation that the week of October 5th through October 11th, 2003, would be Fire Prevention Week for the City of Laurel.

Mayor Johnson stated that the clerk/treasurer had a presentation to make.

Mary Embleton stated that on Thursday, October 2nd, the MMIA, the Montana Municipal Insurance Authority organization, conducted their annual meeting as part of the agenda for the Montana League of Cities and Towns 72nd annual conference. During that meeting, MMIA awarded several cities and towns awards of excellence for participating in their program. Mary announced that the City of Laurel was the recipient of the award for the Most Improved Experience Modification Factor for Workers' Comp Program for Third Class Cities and Towns for fiscal year 2003-2004. The City of Laurel improved their experience rating, which is based on claims for workers' comp, by 15 per cent. She stated that congratulations go out to the folks in the city for encouraging safe work practices in the City of Laurel to make this a safe place for our workers to work. This is not the first time the city has received an award for improvement from the MMIA. In 1998, we received an award for the Lowest Experience Modification Factor in our general liability program for Third Class Cities and Towns. We had a factor rating of .84, which is very good. For fiscal year 2001-2002, we received an award again for Most Improved Experience Modification Factor on our liability and we improved it by 12.9 per cent. Mary was very pleased to accept the award on behalf of the City, and she presented the award to Mayor Johnson on behalf of the City.

REPORTS OF BOARDS AND COMMISSIONS: None.

COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT):

Mary Embleton, clerk-treasurer, thanked Mayor Johnson for bringing forward a new tool for the budgeting process. The new timeframe schedule will help to visually watch the progress and anticipate the deadlines of the upcoming budget season. Mary again thanked the Mayor for bringing the tool forward, and she feels everyone will benefit from it.

SCHEDULED MATTERS:

- **Confirmation of Appointments.**
Current Board/Committee vacancies
Board of Appeals: three positions – two-year terms to begin immediately
Drug and Alcohol Task Force Chairman
Board of Adjustments – two positions to fill terms expiring 06/30/04 and 06/30/05
Budget/Finance Committee – Dan Mears was appointed at the previous council workshop.
- **Planning Board recommends to the City Council that the variance request from Brad Dillon (Meadowood Apartments) for a larger than normal sign be allowed subject to the top of the sign being lowered from eight feet to six feet. No further public hearing is recommended.**

Motion by Alderman Mace to approve the variance request from Brad Dillon (Meadowood Apartments) for a larger than normal sign, subject to the top of the sign being lowered from eight feet to six feet, seconded by Alderman Poehls. Motion carried 7-0.

- **Planning Board recommends to the City Council that the preliminary plat of Laurel Business Park Subdivision (Lot 4, Block 1, Entertainment Park Subdivision) be approved subject to the conditions listed by the Director of Public Utilities and the Laurel Fire Department.**

Motion by Alderman Poehls to approve the preliminary plat of Laurel Business Park Subdivision, subject to the conditions listed by the Director of Public Utilities and the Laurel Fire Department, and also subject to the condition by the City Council that when the City extends South Fourth Street to Barnhart Road, the subdivision has five (5) years to finish an improved access, meeting City Code, to Lot 4. The motion was seconded by Alderman Dart.

Alderman Poehls explained that South 4th Street is in front of Laurel Ford, and it is anticipated that it will be extended eastward to Barnhart Road. During the subdivision process, they have access down Barnhart Road to Lot 4, as long as dust control is maintained. The proposal is that when South 4th is extended to Barnhart Road, they have to put in an improved road to access Lot 4 so Barnhart Road is not a permanent gravel road used as a permanent access.

Alderman Oakes stated that the project should be re-evaluated very seriously at this time. He feels that the project has been put together piece by piece like a jigsaw puzzle, he does not approve of the plan, and he cannot see where much planning went into it.

Cal Cumin stated that Barnhart Road is not to be paved. The improvement has to be made to the other planned streets in the subdivision, not Barnhart Road, as we do not want to improve access down Barnhart Road.

Motion by Alderman Poehls to amend the motion to put in at which time Barnhart Road will no longer be used for such access, seconded by Alderman Easton.

Alderman Mace asked Cal regarding options if the improvements have not been completed after five years and there are buildings in the subdivision.

Cal stated that the Subdivision Improvements Agreement, which is the contract between the landowner and the city, is an enforceable contract.

Alderman Oakes asked why the city should take that chance and why it could not be required now.

Cal stated, as was discussed with the council at the workshop, it is in the interest of the city to see Entertainment Park Subdivision developed. Part of that is the reasoning for South 4th Street moving

eastward. Cal does not think the city will wait five years for anything to happen. He thinks it is going to happen rather quickly from the standpoint of trying to improve the tax base for the city. He stated that the Subdivision Improvements Agreement that is drawn up adequately protects the city. As soon as more lots are developed, improvements will be made out there. He cannot see the subdivision continuing with one tenant when it has been re-subdivided into small, very saleable lots. The only thing he questions now is whether the property owner's lease will allow the one street that comes off of 4th Street and goes up to cross his property. However, if he does not allow it, that is covered. That is one reason why the plat looks weird, because it is based on things happening in a sequence. Cal stated that Subdivision Improvements Agreements become solid contracts, and it is not very often that it is necessary to enforce them.

Mayor Johnson asked if there was further discussion. There was none.

A vote was taken on the motion to amend the original motion. Motion carried 5-2, with Aldermen Dart and Oakes voting nay.

Mayor Johnson stated that the next motion on the floor is the motion as originally made and now amended.

Alderman Olson stated that the council recently went through a very extensive budget session and found that the city's tax base is not enough to accomplish some of the things that need to be done. He sees this as an opportunity to increase our tax base and have an opportunity for businesses to come in and expand. Although some things are not tidy in a nice little package, he believes this is an opportunity for Laurel to grow.

Mayor Johnson asked if there was further discussion. There was none.

A vote was taken on the motion as amended. Motion carried 5-2, with Aldermen Dart and Oakes voting nay.

ITEMS REMOVED FROM THE CONSENT AGENDA:

Resolution No. R03-106: Resolution of the City of Laurel, Montana, approving certain rate adjustments.

Motion by Alderman Oakes to approve Resolution No. R03-106, seconded by Alderman Olson.

Mayor Johnson asked for discussion.

Alderman Dart stated that there were several points he wanted to share with his constituents about the uncomfortable feeling he gets with this.

First, Alderman Dart thinks that the consent agendas should be reserved for housekeeping issues or things that are less controversial in nature. The water intake has been a huge issue for the city. To put this particular item, approving or not approving of certain rate adjustments, on the consent agenda looks like we are trying to rubber stamp it without meaningful dialogue, discussion, and understanding of this council. Alderman Dart suggested that the majority of people at the meeting did not know how the whole process came to fruition, and he stated that he was also lost. He read the following part of the resolution: "Whereas certain city officials of the city, without express council authorization, had taken it upon themselves to determine that this was a fair and just thing to do in lieu of the city or this council." He stated the need to understand why it would be just a few people and not this council who would determine that at that time it was not an issue for this council, but now we are coming full circle around and now it looks like this is an issue for this council.

The second issue here is the independent audit that was just completed in September by Olness and Associates for the fiscal year ending June 30, 2003. The process for rate adjustments for the water for Cenex began when certain officials determined in the late fall of 2002 that it would be permissible to do these rate adjustments. It was done without authorization or knowledge of some of the council members. Now one full year later the audit comes through, and he questioned why certain city officials knew at the time that the water revenue bonds were not in jeopardy because of this action. Alderman Dart asked if the bond counsel was aware of the fact that this had occurred the previous year. This council was never taken under advice and did not know what was going on. He

asked regarding the potential for liability for this body, this city, and these taxpayers when a few people make the decisions that should be in front of this legislative body.

The third issue is the impact absorbed by taxpayers on their water rate. He questioned if there was any impact on the taxpayers when Cenex was granted a water rate reduction, because certainly all taxpayers took an increase in water rates and will have subsequent water rate increases. It is only fair to the taxpayers to have the full understanding if anything came back, and the taxpayers of this city deserve an answer.

Finally, Alderman Dart asked why this council was being asked to approve this resolution, as the ink has long since been dried on the relationship of a few people who went out and did this deal with Cenex. He questioned why the council is now being asked to rubber stamp this situation when it is done and the issue is over with. The council is being asked to ratify something that it really had no hand in from the beginning. Alderman Dart stated that it is really uncomfortable for him to be subjected to this.

Mayor Johnson asked for further discussion.

Alderman Oakes stated that at the beginning of this, when the executives or personnel from the city and Cenex Refinery started to discuss this water problem, there must have been several lengthy discussions and a lot of different topics must have come forth. But there does not seem to be any minutes or any written document as to what took place. When he looks at this resolution, it is more or less a rubber stamp as to what took place that the majority of the council does not know about.

Alderman Dart asked that the council table this motion until they could have an audit and subsequent understanding of this issue in order to understand how these things work and how these deals are cut and made when he feels that this should have been the council's responsibility. He asked for a motion to table Resolution No. R03-106.

Motion by Alderman Oakes to table Resolution No. R03-106, seconded by Alderman Dart.

A roll call vote was taken on the motion. Aldermen Dart, Oakes, and Van Roekel voted aye. Aldermen Poehls, Mace, Easton, and Olson voted nay. Motion failed 3-4.

Mayor Johnson stated that council was back to consideration of the resolution.

A vote was taken on the motion to approve Resolution No. R03-106. Motion carried 4-3, with Aldermen Dart, Oakes, and Van Roekel voting nay.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT): None.

COUNCIL DISCUSSION:

Mayor Johnson stated that the Health Board is making a proposal that the Yellowstone City-County Health Department actually purchase the land and the building on the St. John's campus. The proposal has already gone to the St. John's group. A number of questions were raised regarding an initial proposed leasing or rental agreement. In the future, there could be a hospice facility on the west end of Billings, which would be available for use by the Laurel community.

The Health Department is working through legislation that would allow them to borrow funds to finance this and other purchases, as they are in the process of expanding their campus.

The Alberta Bair Theatre has received a grant that provides for them to provide transportation and other enticements for outlying communities. The very first one would be the focus of Laurel to attend the Alberta Bair Theatre and their programs. Mayor Johnson received some information from Bill Fischer, the Executive Director of the Alberta Bair Theatre. This represents a tremendous opportunity for the Laurel community to avail themselves to the arts that are available in Billings.

Alderman Olson attended the Budget/Finance Committee meeting when Mayor Johnson presented a method to document the upcoming budget process. He applauded the Mayor for his work.

Mayor Johnson mentioned that it was nice to have Alderman Easton back.

Alderman Mace reminded the council of the joint city-county meeting on Wednesday, October 15th, at 5:30 p.m. The Shiloh Overlay Project is the single item on the agenda.

- Review of Committee Minutes:

Mayor Johnson called attention to the monthly reports from the police department, the fire department, code enforcement, and the ambulance. Some good information is starting to come forward, and the year-to-year comparisons are starting to be of value.

Alley Clean-Up Week is scheduled for October 20th through October 24th. Information will be published in the Laurel Outlook.

UNSCHEDULED MATTERS:

There being no further business to come before the council at this time, the meeting was adjourned at 7:14 p.m.

Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 21st day of October, 2003.

John E. Johnson, Jr., Mayor

Attest:

Mary K. Embleton, Clerk-Treasurer