

MINUTES OF THE CITY COUNCIL OF LAUREL

March 2, 2004

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 Ken Olson at 6:30 p.m. on March 2, 2004.

COUNCIL MEMBERS PRESENT: Dick Fritzler Doug Poehls
 Kate Stevenson Mark Mace
 Dan Mears Daniel Dart
 John Oakes

COUNCIL MEMBERS ABSENT: Gay Easton

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

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

MINUTES:

Motion by Alderman Fritzler to approve the minutes of the regular meeting of February 17, 2004, as presented, seconded by Alderman Mears. Motion carried 7-0.

CORRESPONDENCE:

Montana Department of Administration: Letter of February 13, 2004 regarding the response to the audit findings.

Senior Helping Hands: Letter of February 17, 2004 thanking the City of Laurel for the funding allocation for fiscal year 2003-2004.

Laurel Senior Center: Letter of February 20, 2004 thanking the City of Laurel for the donation.

Cable Montana: Service Reports for January 2004.

Leonard and Julie Orth, Salvin and Laurie Gebhard, and Gerald and Gloria Fjelstad: Letter of February 25, 2004 regarding land use variance request at 1707 East Maryland.

Nancy Lausch: Letter of February 25, 2004 to the Yellowstone County Commissioners (copy to Laurel City Council) regarding land use variance request at 1707 East Maryland.

PUBLIC HEARING: Public comments regarding overall community development needs and priorities of the City and grant applications for public facilities projects.

Mayor Olson introduced Crystal Bennett, of Montana Engineering & Administration, and Jason Mercer, of Morrison-Maierle.

Crystal Bennett explained two available funding sources for the City of Laurel. The first is the Treasure State Endowment Program. The City can qualify for grants of up to \$500,000 from the TSEP Program. Eligible projects include drinking water systems, wastewater treatment systems, sanitary sewer or storm sewer systems, solid waste disposal and separation systems, as well as bridges. For this particular application, we are looking at a wastewater project. TSEP requires that the city be above the target rates for water and sewer combined. According to the Montana Department of Commerce, the target rate is currently \$56.37. The average rate for Laurel residents is \$71.64 for water and sewer combined, putting the City at about 130 percent of the target rate. The City of Laurel definitely qualifies for the TSEP grant. TSEP also requires a 50/50 match, so for the \$500,000 grant, another \$500,000 must be provided. Other grants can be included as part of the match.

Crystal explained the DNRC grant for up to \$100,000. Eligible projects include any renewable resources. It can be preliminary engineering studies, the design, or construction of these projects.

Crystal introduced Jason Mercer to explain the project.

Jason Mercer gave a Power Point presentation regarding the Wastewater Facilities Plan that Morrison-Maierle completed for the City of Laurel in 2003.

Jason explained the Wastewater Facilities Plan. The following items were presented in the plan: assessment of the current situation; assessment of future situations; development and evaluation of alternatives; development of an implementation plan; pursuing State and Federal grants.

The plan included a review of the collection system and the average low flows recorded at the Wastewater Treatment Plant. Significant infiltration and inflow occurs during the summer as a result of irrigation. That impacts the collection system and adds almost a million gallons of infiltration of clean water that does not need to be treated but has to be dealt with at the treatment plant.

The Wastewater Facilities Plan developed the recommended near-term improvements for the wastewater collection system. The recommended Phase 1A improvements include: replacement of the eight-inch main on East Railroad Street (40 percent of the extra million gallons of water comes from that line); new trunk main on Alder Avenue (sewer main on Idaho runs in back yards and was not designed to act as a trunk main); the plant drain pump station replacement; effluent flow monitoring (resulted from a DEQ inspection that determined the monitoring of the effluent flow was not up to standards and needed to be addressed).

The City of Laurel submitted a successful CDBG application and is in the process of getting \$500,000 in grant money to complete construction of these four improvements this spring. The design of the projects will be finished this week, and the bidding process will begin.

The recommended Phase 1B improvements were: the replacement of the existing trunk mains; the replacement of the one-month lines; the lift stations; improving the grit removal and the safety of the headworks facility; and dealing with the primary clarifiers and the plant water system improvements.

The \$500,000 TSEP application and the \$100,000 DNRC application are being prepared by ME&A to focus on the replacement of the existing trunk mains, which are the trunk mains that come out of the plant. The project is estimated at a little over \$1 million. The remaining Phase 1B items will be addressed in future capital improvement projects. The trunk mains and the infiltration are the current priority, and upsizing the lines will put the city in a position to handle future growth for the next twenty to thirty years.

Crystal stated that the project is estimated at approximately \$1 million. More than half of the funding is expected to come from grants with successful grant applications. The City of Laurel would be required to submit approximately \$433,000 in match monies. The council would be required to pass a resolution that commits those funds and authorizes the applications to both funding sources. If the city were to take the whole amount from a SRF loan, it would be approximately a \$1.50 rate increase per average resident per month. Crystal stated that it is not a significant rate increase, but it is something that needs to be done and does impact the community.

Crystal asked for comments from council members and the public regarding whether to pursue the applications.

Mayor Olson stated that one of the goals of the project was to produce a plan that would appraise the city of the condition of the wastewater system. The plan has addressed several issues that were identified in the Wastewater Feasibility Plan that was done in 2002. Some council members were not present at the time of the feasibility plan. The funding sources, \$500,000 from CDBG and \$100,000 from DNRC, would be more than sixty percent of that needed for the city funds. Mayor Olson stated that a resolution would be presented at the next council workshop, and more details of the city's funding capabilities would be known at that time. A request for an increase of \$1.50 per monthly bill may be presented. That consideration will have to be reviewed by the council.

Mayor Olson asked if there were any other questions. There were none.

Mayor Olson asked three times if any other proponents wished to speak. There were none.

Mayor Olson asked three times if there were any opponents. There were none.

Mayor Olson closed the public hearing.

CONSENT ITEMS:

- **Claims for the month of February 2004 in the amount of \$193,589.67.**
A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.
- **Approval of Payroll Register for PPE 02/15/04 totaling \$120,355.21.**
- **Receiving the Committee Reports into the Record.**
 - Budget/Finance Committee minutes of February 2, 2004 were presented.
 - City-County Planning Board minutes of February 5, 2004 were presented.
 - Council Workshop minutes of February 24, 2004 were presented.
- **Resolutions.**

Resolution No. R04-18: A resolution authorizing the Mayor to sign Change Order No. 9 for the new water intake.

Resolution No. R04-19: A resolution approving Alderman Easton's absence from the City of Laurel.

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

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

CEREMONIAL CALENDAR: Arbor Day Proclamation

Mayor Olson read the following Arbor Day Proclamation.

WHEREAS, natural areas, trees, and landscapes provide not only community beautification but also economic and environmental benefits; and

WHEREAS, trees provide many benefits to the community, including air purification, windbreaks, noise reduction, shade and energy savings; and

WHEREAS, planting trees and maintaining older trees provides an opportunity for community interaction, volunteerism, economic development, and environmental conservation; and

WHEREAS, our efforts to improve the environment benefit present and future generations; and

WHEREAS, Arbor Day in Montana is officially the last Friday in April;

BE IT THEREFORE RESOLVED,

I, Kenneth E. Olson, Jr., Mayor of the City of Laurel, Montana, do hereby proclaim April 30th as Arbor Day in the City of Laurel, and encourage citizens to participate in appropriate activities and to take advantage of the benefits of the parks and other natural areas in our community.

Mayor Olson stated that the opportunity to bring this to public attention is beneficial, not only to us, but to the future generations. He has had an opportunity to see the Town Square developed, and there is going to be a lot of investment and beautification in that project. Mayor Olson encouraged individuals to take it upon themselves to beautify areas with regard to trees or landscaping. In the future, those types of efforts will be recognized, not only by us, but also by future generations.

REPORTS OF BOARDS AND COMMISSIONS: None.

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

Board of Adjustments – two positions to fill terms expiring 06/30/04 and 06/30/05

Clerk-Treasurer, Public Works Director, Public Utilities Director, Chief of Police:

Mayor Olson appointed Mary Embleton as Clerk-Treasurer, Steve Klotz as Public Works Director, Larry McCann as Public Utilities Director, and Rick Musson as Chief of Police for two-year terms ending December 31, 2005.

Motion by Alderman Dart to approve the appointments of Mary Embleton as Clerk-Treasurer, Steve Klotz as Public Works Director, Larry McCann as Public Utilities Director, and Rick Musson as Chief of Police for two-year terms ending December 31, 2005, seconded by Alderman Oakes. Motion carried 7-0.

Mayor Olson stated that the staff has been very willing and able to meet the needs of the City, and he feels very comfortable with having those people in those positions. He thanked the council for the vote of confidence in the staff.

Insurance Committee:

Mayor Olson stated that he has appointed Alderman Fritzler to the Insurance Committee.

- **Land use variance request from the zoning as “Residential Tract” to allow up to four horses on the property at 1707 East Maryland Lane (Lot 21, Block 5, High Point Subdivision).** Planning Board recommended denial.

Mayor Olson explained how the meeting would be conducted.

Mayor Olson presented the issue to the council, and he urged members of the council to consider all of the options. Mayor Olson stated that the city council had the right to question the mayor and the staff for clarification purposes at this time.

Alderwoman Stevenson asked the city planner to state his recommendation at this point.

Cal Cumin stated that this issue comes before the council tonight with a recommendation not to pass from the planning board and a recommendation to pass from the city planner. For the last month, he has been concerned about the process by which the council has considered this. He thinks it has been done fairly and legally. He stated that some recommendations might come out of the council action tonight that would help address this kind of issue in the future.

Mayor Olson stated that the applicant had the right to comment and take questions from the city council at this time.

Willow Pedersen distributed copies of signatures property owners that approve of the variance request for this property and a map showing the property owners that are in favor of livestock and those that are not in favor of allowing livestock in the area.

Willow Pedersen, 1707 East Maryland, purchased the property two years ago in good faith that it was horse property. The former owners had horses and sheep for many years. She was told that the neighbors had horses shortly before her arrival. Others owned all kinds of livestock in the neighborhood and still do. The property covenants allow up to four horses per property and the realtors involved told her that this was horse property. Willow responded to a few allegations that have been made.

Willow stated that the Kurkoskis and Eckhardts are wrong in telling the council that her property is nothing more than a stockyard and a feedlot. When she purchased this property, she had three horses and has always kept them in clean surroundings. The Kurkoskis and Eckhardts told the planning board that Willow was running a horse training business on the property. Willow stated

that is simply not true. She trains horses at arenas around the area and never intended to operate a business out of her property. If the neighbors had asked her, she could have told them that. The property is in as good of shape as any one around, and she improved it. The police complimented her, in writing even, on how she kept good control of her dog and found no proof of a public nuisance. She has never understood this vendetta against her, but it comes from only these two couples. The rest of her neighbors have been very supportive.

Willow mentioned that the council had the signatures of many of the property owners of this subdivision supporting this variance. A map of the subdivision was also provided. The portion colored in orange represented these plus the other landowners who also support horses being allowed. Willow stated that, contrary to what the council may have been told, the map is proof that above sixty percent of all the landowners in the subdivision are for the variance. That the variance is not against public interest is shown by the fact that the subdivision has had horses and had horse owners for years. And as the map shows, a majority of the property owners still have no objection to this use. Because Willow paid a premium for horse property, not getting this variance would deny her the right enjoyed by everyone else in the subdivision right now. This would also create an unwanted hardship and an inability for her to sell her property as she purchased it and it was represented to her.

Willow closed by stating that she came to Laurel to be a good citizen. She is leaving now because she cannot live here. She thanked the many neighbors who have come to these meetings and supported her and the right to own horses in the subdivision. Willow thanked the council for whatever favorable consideration that they would give to her request. .

Mayor Olson stated that the city council now had the opportunity to address the applicant. There were no questions from the council.

Mayor Olson stated that the public had a right to comment at this time. He read the following rules for addressing the council: The public is encouraged to speak at this meeting; He reminded everyone not to interrupt this meeting, nor to disturb anyone speaking; Please no shouting, no personal remarks, no profanity will be allowed; Anyone loud or boisterous will be asked to leave this meeting.

Mayor Olson asked if any proponents wished to speak.

Rick Flanagan, 1336 East Maryland Lane, bought his property in 1996 as horse and cow property. He supports this variance for 1707 East Maryland, except he thinks that it should be limited to two horses instead of four. Rick feels that the property values are higher in this area when horses are allowed. He does not think it is fair for any one landowner to be restricted from selling property as horse property when the entire subdivision has been allowed to do so in the past. Allowing the variance follows the public interest of the people who live in the subdivision by a super majority and other subdivisions in the area. Rick and other owners have called many people in the subdivision and found that of the sixty percent (60%) that were polled, eighty-seven percent (87%) of the people were in favor of having livestock in the subdivision. He did not specifically ask the property owners if they were in favor of this variance. He wanted to know if the property owners understood that they were governed by the zoning ordinances and not just the covenants. The statistics also showed that thirteen percent (13%) of the people are against the variance and four percent (4%) were undecided. Rick thinks that the percentage of people for the variance would be higher if the unavailable people had been contacted. The number that Willow stated (60%) was provided by Rick, and he feels that the number was a bit narrow and should be more like eighty-six (86%) or eighty-seven (87%) in favor.

Rick mentioned that the council had a copy of the map that shows the data. Rick agrees with the comments and the questions regarding the lot size, weather conditions for grass, and the animal rotation which preserves the land that have been brought up by the people that oppose this issue. They are all good points. He does not feel that the land in the Highpoint Subdivision has been abused as a whole. If the variance were to allow horses, this would be a compromise that would allow the property to be listed and sold in the most optimistic advertising. When the property was sold and the current owners moved, any alleged sources of conflict would be removed, including vehicles, dogs, trailers, and unauthorized business. This variance is in the spirit of nearly all the property owners in the subdivision. Rick hopes that it passes and that the city council specifically assigns tasks to the county planning consultant to prepare a zoning change similar to that in subdivision covenants. Rick thanked the council for the time to be able to discuss the issue.

Mayor Olson asked if there were any other proponents. Mayor Olson set a three-minute time limit for those wishing to speak.

Linda Wedel, 20 4th Avenue, is the realtor for Willow Pedersen's property. The variance issue has definitely caused a hardship in selling the property. There have been several interested people at the asking price who have been detoured because they did not know whether they could or could not have livestock. Actual market time with comparable properties has been around sixty to eighty days, and this property is at 180 days, even with a price reduction. The price on the property is less than the reflected percentage that overall properties have increased in the last three to four years. The nice arena and barn for horses defers non-horse people because they do not want that in their back yard. It was expensive to put in, and no one approached Willow about a violation when it was built. It would be nearly impossible to remove it as it is cemented into the ground. Linda stated that this issue has caused a hardship on this person in going on with her life. Linda thanked the council for their time.

Mayor Olson asked if anyone else wished to speak.

Leonard Orth, 920 Ridge Drive, stated that he just recently moved outside the city limits and purchased two acres in this area. He did not purchase the property with the intention of riding a lawn mower all summer long. When they toured the area, it was clear that there were a lot of animals up there and they hope to do the same. His encouragement and plea to the council was, whatever action is taken tonight, that the council would consider that this is not just a matter between one person and her neighbors. This is a matter that concerns many individuals who purchased property up there. Leonard referenced Cal's recommendations, which he thought were very thoughtful. Leonard asked that the council, whether or not the variance was approved, to take into consideration that this is a unique area and ask the city planner to do some more investigation. Mr. Orth thanked the council.

Mayor Olson asked if anyone else wished to speak in favor of the issue.

Warren Albrecht, a resident of Billings, is a lawyer and former state district judge from North Dakota and presently is a United States administrative law judge with offices in Billings. He is not here in an official capacity, but as a friend of Willow Pedersen. He wished to speak about the issue of where the public interest might lie and the issue of what kind of precedent might be set with regard to this variance. He stated that he probably would not have gotten off his rather warm couch to come here, but for the fact that he learned that Willow Pedersen's house was vandalized recently. He stated that she may be afraid, but he is not, and he thinks the hypocrisy of some of the claims made should be addressed. This property, even before the house was built in 1997, was a bare piece of land with a fence around it and for many years had horses on it. Mr. Albrecht stated that one of the complaining parties, Gene Eckhardt, ran horses on that property for many years. After the property was purchased and the house built, he moved his horses over to his own property and had them on his property for a few years again in violation of your zoning ordinances. Mr. Eckhardt did not bring that up to the planning board or the council. Mr. Albrecht stated that the hypocrisy should be a testament to the lack of credibility of this gentleman. Mr. Albrecht mentioned Mr. Branstetter, the neighbor who has allergies. Warren has learned that Mr. Branstetter not only had sheep and cows on the property he now inhabits, he also traps and he allows his neighbors the delightful scene of seeing dead carcasses hanging around his property after he brings them home. He never complained about Eckhardt's horses when they were on the same piece of property. Mr. Albrecht stated that he has been told by reputable sources in the neighborhood that Gene Eckhardt took down Willow's fence and simply allowed her horses to run free one night. These are examples of what these people are willing to do. Mr. Albrecht stated that, while Willow is afraid of them, he is not, and he thought the council should hear this. As to the issue of where the public interest lies, these neighbors are going to tell you where they think the public interest lies, and the council has the right to determine their credibility. As to the issue of precedent, Mr. Albrecht thinks the precedent of not granting the variance and thus having to go around and enforce the ordinances against everybody in this property would be setting a much greater and more fearful precedent than acknowledging the uses that have been put on this property and granting a variance. Mr. Albrecht thanked the council.

Mayor Olson asked if any other proponents wished to speak.

Mayor Olson asked if any opponents wished to speak.

Gene Eckhardt, 1723 East Maryland, is one of the sixteen neighbors that live within 300 feet of Ms. Willow Pedersen. He opposes this variance for this property owner for the following reasons. It has

been zoned residential since 1978, and this means no livestock. Ms. Pedersen wants to sell this property and move away, leaving the rest of the neighbors who have lived there for many years with the mess. They are the ones that smell the manure and put up with an abnormal amount of flies and dust, not Willow. Mr. Eckhardt stated that their properties would be devalued. They have improved their properties for over twenty-five years. Because of neighbors like Ms. Pedersen, Mr. Eckhardt stated that their property is worth less. Someone who did an appraisal on Mr. Eckhardt's property told him that her lot is only 1.3 acres total, half of which is taken with the house, the garage, a front yard, a back yard, and a huge corral for riding and giving lessons. He questioned what is left for horse pasture, and stated that each horse requires a minimum of one acre for pasture. Mr. Eckhardt stated that these are the facts, and that they have conducted themselves just to the facts. Since the City of Laurel zoned this subdivision as residential in 1978, he thinks it is time to put some teeth into the regulations. Mr. Eckhardt thanked the council.

Mayor Olson asked if anyone else wished to speak.

Harold Branstetter, 1607 East Maryland, owns the land that borders Ms. Pedersen to the west. They have lived in their home for twenty-seven years. The council received a copy of a letter from his allergy doctor, Dr. Kathleen C. Davis, M.D. of the Billings Deaconess Clinic, and a copy of a letter from his family doctor, Dr. Robert VanNice of the Laurel Clinic. According to the records as of 9:00 p.m. last night for Dr. VanNice and 9:00 a.m. this morning for Dr. Davis, not one person who received a copy of the letters bothered to call either doctor to find out how serious his allergies to horses, dust, and molds really are or how serious a reaction he could suffer if forced to be exposed to them. He explained it to the council as it was explained to him in layman's terms. If a bee stings an individual who is allergic to bee stings, they could die. They could die because they are allergic to the protein in the venom from the sting. He questioned if anyone would allow someone to put beehives on a neighboring property if they were so allergic to bee stings that it could be fatal. Mr. Branstetter stated that he is being asked to accept horses and dust ninety feet from his back door. If the wind blows in his direction, the dust is at his back door and in their home. He will not accept this. His doctors have told him that everything about horses, including the dust that they stir up, is toxic to his system and further exposure will more likely make his symptoms worse. He showed a hypodermic needle with a vial containing adrenaline. He has been advised by his doctors to carry this at all times, especially when in his own back yard while there is a danger of exposure to dust that is present when the wind blows. The dust comes from the corrals where the horses were illegally kept on the property next to them last summer. He explained the way this needle works. Mr. Branstetter does not intend to live the rest of his life not being able to breath the air in his own back yard without taking a serious health risk. Because of these medical reasons, he asked the council not to force him into this situation. He asked the council to not grant the variance. Mr. Branstetter thanked the secretary, the city council, the city attorney, and the mayor for their time and consideration in this matter.

Mayor Olson asked if anyone else wished to speak.

Fred Holland, 1825 East Maryland Lane, stated horses have run through his yard, torn up the yard, and broken sprinkler heads. When the property next door was overgrazed, heavy rains and high winds have caused horse manure and large amounts of dirt to go on his property. Mr. Holland is opposed to this variance. He thanked the council.

Mayor Olson asked if anyone else wished to speak. There were none.

Mayor Olson stated that he would entertain a motion at this time.

Motion by Alderman Poehls to approve the land use variance request to Willow Pedersen for up to two horses on the property at 1707 East Maryland Lane, seconded by Alderman Dart.

Mayor Olson stated that it was time for council discussion.

Alderman Oakes read the following statement, which he had distributed to the council prior to the meeting.

This subdivision was established in 1970 and it consists of 77 properties of various sizes. And it is zoned Residential Tract Zone.

Ordinance No. 17.12.034, which prohibits livestock animals, such as horses and cows, was adopted in 1978, eight years after the subdivision was formed, and appears to have been revised in 1996.

I have received letters and also phone calls from several of the residents of the subdivision. They have told me about their own experience with their livestock and their feeling about the problem.

In making a decision tonight, I have to do it, not as a neighbor or friend, but as a councilman, as a leader of this community.

Approving this variance is not going to solve any of the questions that this complaint has brought to the forefront.

1. Who is going to buy this property as horse property now?
2. The realtor will have to inform any potential buyer about the history of the property.
3. Willow Pedersen's behavior in this subdivision prompted the complaint, which led us to why we are here tonight.
4. The City of Laurel is not responsible for any financial hardship she might incur through her own behavior.
5. Her behavior has brought the ordinance forward where something has to be done about the violations on other properties.
6. The land area is too small to support livestock.
7. The property is undersize (less than 5 acres) which are causes for a sanitation concern.
8. Granting this request will not be in the spirit of the land use regulations, the public health, safety or the greater good of the City of Laurel and the surrounding area.
9. Granting this variance will violate the spirit of the ordinance and will lead to more difficulties.

I recommend that the council vote no for this request.
John Oakes

Mayor Olson asked if there were any further comments.

Alderman Mace drove to this area and noticed that there are a lot of areas that will have the same issues in the future. It is a citywide problem that the council will have to address. The easiest way to deal with it without pitting neighbors against neighbors is to eventually annex these areas. That is going to happen, but it cannot be done at this time. We need to have a policy to deal with this same issue in the future until the areas are annexed. There are subdivisions near the airport, near the west end, and other places. Alderman Mace's hope is that the council can find a way to solve this so that the same procedure can be used from this point on.

Alderman Poehls complimented the public because they were very gentlemanly about handling this issue. He talked to several on the phone and received letters from some, and everybody has been very, very gracious. He wanted to make that a public statement.

Alderman Poehls agreed with Alderman Mace and stated that the issue for consideration is Willow Pedersen's variance. The ultimate goal is to settle the zoning issue regarding the transitional areas around the City of Laurel. He stated that another type of zoning might be needed, instead of just residential or commercial, to address the rural areas that are surrounding the City of Laurel. He does not see where their type of rural climate or environment will ever change where people move into these areas knowing that originally they could have horses. Alderman Poehls stated that direction needed to be given to make a decision on this at some future point.

Alderman Dart agreed with Aldermen Mace and Poehls. He appreciated the public's input and how it was presented with grace and dignity. However, he is a little discouraged, being a fourth generation Montanan, at how some of these neighbors got along with each other. He thinks it is rather shameful, and he needed to go on record to say that. It was not very neighborly and was not conducted as such. This very contentious issue is not only a land use issue, but also it is a situation where some properties are outside the city limits and the decision rests with the council. He hopes that this body has an understanding that, just because an ordinance has been on the books so long, it does not mean that government is unwilling to adjust things as time goes on. Just because an ordinance is cast in stone, it does not mean that it cannot be changed for the good of the majority of

the people. He hopes that it is possible to find the spirit of cooperation in order to benefit everybody.

Alderwoman Stevenson stated that it seems the zoning in this case was a very obscure issue that did not come to light until there was a problem. She doubts that anyone moved into that area thinking that it was a city residential subdivision. They moved in because it was the flavor that it has always been, a rural area. Alderman Stevenson thinks that enforcing the zone is wrong in this issue, because she does not think it was perceived to be zoned that way.

Mayor Olson asked if there was any other discussion.

Alderman Oakes commented that the recommended use per animal per acre is by units, and a horse equals one and one-half (1½) unit per acre. Two horses should have three acres of available ground. A horse will eat constantly and it takes a lot of grass to feed a horse and a lot of rain to furnish the grass. Without rain, horses must be fed baled hay or some kind of forage. Sanitation is an issue, and waste accumulates on the ground. There are no requirements to haul this manure or waste off to a dumpsite. Alderman Oakes stated that a lot of problems come with having animals.

Alderman Mears asked for clarification that the motion was to approve the variance for up to two horses. Alderman Poehls agreed that that was his motion, as he thought it was a good compromise instead of denying the variance request.

Mayor Olson asked if the council was ready to address the issue. At Mayor Olson's request, the council secretary restated the motion.

A roll call vote was taken on the motion to approve the land use variance for up to two horses on the property at 1707 East Maryland Lane. Alderwoman Stevenson, Aldermen Poehls, Mace, Dart, Mears, and Fritzler voted aye. Alderman Oakes voted nay. Motion carried 6-1.

Mayor Olson made a statement to the audience. Now that this has moved forward, he encouraged the group to come together. If we have an opportunity to have input to determine how your zoning should be affected, this would be a great time. Now there are people that are responsible for a lot of the legwork regarding this issue. Mayor Olson asked that they come together. He stated that the city-county planner, Cal Cumin, would be their contact person if they desire to bring the issue forward through the planning board. Mayor Olson stated that the city council enjoins any type of effort to see what would be more applicable out there.

Motion by Alderman Fritzler to instruct the City-County Planning Board to create a moratorium on the land use issues in this area, seconded by Alderman Poehls.

Alderman Mace asked Cal if there would be a time limit on the moratorium. Cal stated that there should be a six-month or one-year time limit, which could be extended up to one year. A time frame would be necessary.

Alderman Mace asked for an explanation regarding a moratorium.

Cal explained that the motion is for a moratorium on land use changes in this area, which is a generalized area. He thinks the Planning Board should determine the exact boundary of the area and the moratorium within the confines of the council's timeframe. The planning board would hold a public hearing and make a recommendation to council, and the council would act on the recommendation.

Mayor Olson stated that the council would consider adopting the Planning Board's recommendation.

Alderman Poehls stated that this needed to be done because the council's ultimate goal now that the variance has been set aside is to let these people provide input regarding what they want for zoning. We need to step back and stop whatever is going on so the council does not have to address the variance issue again until this zoning issue has been determined. That is what is important in passing this moratorium issue.

Alderwoman Stevenson agreed and stated that it is basically calling a ceasefire and putting it back on the individuals in this subdivision to determine what they want the rules of the subdivision to be. If landowners truly want animals out there, it needs to be zoned to allow animals so these issues do not come up. If property owners believe that the nature of the area is not going to become residential in

nature and they want to retain it the way it currently is, then the property owners need to come up with an agreement to present for the council to adopt. Alderwoman Stevenson stated that it is up to the property owners to determine what they want this area to be.

Alderman Oakes stated that we are wandering into real treacherous territory, and he thinks we should move slowly. We need to use a lot of caution because this is dangerous.

Alderman Fritzler stated that, throughout this discussion, comments have been made that this is how it has been done in the past and should continue. The conflict has been with the covenants and the ordinance for quite some time. He wanted to make the point that this issue had to come out at some time. It could have come out twenty years ago, it could have come out ten years ago, and it could have come out ten years from now. The point is that it came out and it had to be resolved. It has come out on the watch of this city council and the people that live there now. This issue had to be addressed at some point.

Alderman Mace reiterated his earlier concern that the council addresses the issue for all areas. He questioned whether the moratorium was only for this area or the rest of the city.

Alderman Fritzler stated that the motion was for the Highpoint Subdivision.

Alderman Poehls knows how the motion was stated, but he asked whether the planning board could determine what area they want to address.

Alderman Fritzler stated that would be his understanding.

Mayor Olson stated that the council would consider the recommendation of the City-County Planning Board. The recommendation would be brought to the council, who would make a formal determination at that time.

Alderman Mace asked how the residents would come back to the council.

Mayor Olson stated that the recommendation from the executive is to have the people get together on their own accord to form a group. He told them not to take this lightly. This is not an opportunity that is afforded at will. It is an opportunity for the property owners to decide how they want their future to be in this area. Not a lot of jurisdictions will allow that. Mayor Olson encouraged all those who are interested in this to be part of this group. That is the intent of the request, and he has a distinct feeling that this ball will not be dropped. Mayor Olson stated that he has a lot of faith in the city-county planner, and he is sure Cal Cumin would be willing and able to do what it takes to resolve this issue. Mayor Olson stated that it has been a very contentious issue and the council wants to come to a favorable resolve as it goes forward.

At Mayor Olson's request, the council secretary restated the motion.

A vote was taken on the motion to instruct the City-County Planning Board to create a moratorium on the land use issues in this area. Motion carried 7-0.

- **Ordinance No. 004-01: Ordinance amending Chapter 17 of the Laurel Municipal Code.** Second reading.

Motion by Alderman Oakes to adopt Ordinance No. 004-01, seconded by Alderman Dart. A roll call vote was taken on the motion. All seven aldermen/woman present voted aye. Motion carried 7-0.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT): None.

COUNCIL DISCUSSION:

- Review of Committee Minutes: None.
- Review of Monthly Reports: Police, Fire, Ambulance, and Code Enforcement: None.

Alderman Oakes stated that the Air Pollution Control Board has received complaints regarding the odor and activities in some of the ranchettes in the Billings Bench. The Board has not acted on the complaints, but it is something that needs to be considered.

Mayor Olson stated that the CIP resolution was not on this council agenda. While attending the Mayor's Conference in Bozeman recently, some issues were brought up regarding funding for the appropriations. Mayor Olson made the decision to review the resolution and will put the item on the next council workshop. More information will certainly be available to the council at that time. This is the first time the city has considered this, and Mayor Olson stated that it is worth the effort to do it correctly. The council would then consider the CIP resolution at the March 16th council meeting.

UNSCHEDULED MATTERS:

There being no further business to come before the council at this time, the meeting was adjourned at 7:54 p.m.

Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 16th day of March, 2004.

Kenneth E. Olson, Jr., Mayor

Attest:

Mary K. Embleton, Clerk-Treasurer