

MINUTES OF THE CITY COUNCIL OF LAUREL

February 1, 2005

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 February 1, 2005.

COUNCIL MEMBERS PRESENT: Dick Fritzler Doug Poehls
 Kate Stevenson Mark Mace
 Gay Easton John Oakes
 Jennifer Johnson

COUNCIL MEMBERS ABSENT: Daniel Dart

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 Alderwoman Johnson to approve the minutes of the regular meeting of January 18, 2005, as presented, seconded by Alderman Poehls. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

CORRESPONDENCE:

2005 Montana Legislature: Information regarding House Bill No. 69.

City of Whitefish: Letter of January 18, 2005, regarding draft bill, LC1724.

Montana's Big Sky State Games: Letter of November 19, 2004 regarding Big Sky State Games on July 15-17, 2005.

Montana Department of Commerce: Letter of January 20, 2005 regarding CDBG Funding and Program.

Montana Municipal Insurance Authority: Risk Management Bulletin of January 19, 2005 regarding Uniform Services Employment and Reemployment Act (USERRA).

Yellowstone Conservation District: Letter of January 21, 2005 regarding Urban Supervisor position.

Big Ditch Company: Notice of Annual Stockholders Meeting.

Department of Military Affairs, Disaster & Emergency Services Division: Letter of January 11, 2005 regarding 38th Annual Governor's Conference on Emergency Management.

- **PUBLIC HEARING: Ordinance No. O05-01: An ordinance amending Chapter 12.32 for the purpose of creating a City Tree Board and revising the City's Tree Ordinance to provide a comprehensive plan for tree planting, maintenance and removal and to provide a penalty for violation thereof.** (First reading January 18, 2005).

Mayor Olson opened the public hearing.

Mayor Olson asked three times if there were any proponents. 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 January 2005 in the amount of \$282,099.52.**

A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.

- **Approval of Payroll Register for PPE 01/16/2005 totaling \$119,114.32.**
- **Receiving the Committee Reports into the Record.**

--Budget/Finance Committee minutes of January 4, 2005 were presented.

--Emergency Services Committee minutes of January 24, 2005 were presented.

--Council Workshop minutes of January 25, 2005 were presented.

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 Oakes. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

CEREMONIAL CALENDAR: Arbor Day Proclamation

Mayor Olson read the following Arbor Day Proclamation.

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 29, 2005 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.

REPORTS OF BOARDS AND COMMISSIONS: None.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT):

Walter Murphrey, 403 Badger Square, spoke regarding the zone change request at 904 Yellowstone Avenue.

SCHEDULED MATTERS:

- **Confirmation of Appointments:**

Police Officer:

Mayor Olson appointed Kyle Bryant as a police officer for the Laurel Police Department.

Motion by Alderwoman Stevenson to approve the appointment of Kyle Bryant as a police officer for the Laurel Police Department, seconded by Alderman Poehls. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

Police Chief Musson introduced Kyle Bryant to the council and mayor. Kyle served as a Laurel Police Reserve for the past four years.

Mayor Olson welcomed Kyle to the Laurel Police Department.

Laurel Police Reserves:

Mayor Olson appointed Rebecca Strait, Travis Warren, Walter Hall, Terrill Bracken, and Jeff House to the Laurel Police Reserves.

Motion by Alderman Oakes to approve the appointments of Rebecca Strait, Travis Warren, Walter Hall, Terrill Bracken, and Jeff House to the Laurel Police Reserves, seconded by Alderman Poehls. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

Chief Musson introduced the five new Police Reserve Officers to the council and mayor.

Mayor Olson welcomed them and mentioned that, in a small community, there is the opportunity for people to step forward and volunteer their time. He stated his appreciation for their service, as the efforts of the volunteers make Laurel a pleasant place to live.

- **Resolution No. R05-10: Resolution relating to Special Improvement District No. 111; creating the District for the purpose of undertaking certain local improvements and financing the costs thereof and incidental thereto through the issuance of Special Improvement District bonds secured by the City's Special Improvement District Revolving Fund.**

Motion by Alderman Fritzler to approve Resolution No. R05-10, seconded by Alderwoman Stevenson. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

- **Resolution No. R05-11: A resolution transferring certain insurance funds of the City of Laurel, Montana.**

Motion by Alderman Easton to approve Resolution No. R05-11, seconded by Alderman Oakes. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

- **Resolution No. R05-12: A resolution adopting the City of Laurel Safety Policy.**

Motion by Alderwoman Johnson to approve Resolution No. R05-12, seconded by Alderman Fritzler. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

Mayor Olson stated that the City of Laurel has made a giant step in meeting certain requirements and qualifications for the State of Montana. He stated his appreciation for the efforts of those who served on the committee to bring it forward.

- **Resolution No. R05-13: A resolution authorizing the Mayor to sign final change order closing the 6th Street project.**

Motion by Alderman Poehls to approve Resolution No. R05-13, seconded by Alderman Mace. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

- **Resolution No. R05-14: Resolution authorizing use of additional funding from the STP Urban Program to cover the estimated increased costs for the Main Street Improvement Program.**

Motion by Alderwoman Stevenson to approve Resolution No. R05-14, seconded by Alderman Poehls. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

- **Resolution No. R05-15: A resolution conditionally approving Solid Foundations Subdivision as an Addition to the City of Laurel, and conditional approval of the requested zoning for said subdivision.**

Mayor Olson stated that the Solid Foundations Project was the next item on the agenda.

Alderman Oakes stated that he had a protest. Alderman Oakes distributed a written statement and a copy of Montana Code Annotated 2003, 7-5-4109, "Control of conflict of interest" to the mayor, attorney, and council secretary.

Mayor Olson stated that it would be noted in the record that Alderman Oakes brought this forward.

Mayor Olson stated that the next item on the agenda was the Solid Foundations Project. The applicant sent a letter to the mayor requesting an extension of time in order to obtain additional work or studies on the site. In order to grant the extension, a unanimous vote of the council would be required. Mayor Olson stated that it was his understanding that the entire council was not in favor of the extension. Unless he heard differently, he intended to proceed to tonight's vote.

Motion by Alderman Mace to approve Resolution No.

Alderman Oakes interrupted Alderman Mace and stated that he wanted his protest read.

Mayor Olson stated that he would allow Alderman Oakes to read the statement, which is attached to these minutes.

Alderman Fritzler asked for a point of order and stated a motion had not been made and seconded for this resolution.

Mayor Olson stated that Alderman Oakes indicated he would like to read the letter that he brought forward, and he would be granted that opportunity at this time.

Alderman Oakes read the statement and MCA 7-5-4109, Control of conflict of interest (1). Alderman Oakes requested the mayor to step down and also requested the other two aldermen to back away from the table because this is a conflict of interest.

Mayor Olson stated that the county attorney's office already ruled on this issue, and with nothing else in front of the council, he found no reason to not participate or for the council members not to participate.

Alderman Oakes stated that they are involved in a financial business.

Sam Painter responded to Alderman Oakes and stated that this issue has been raised and been answered by the county attorney's office.

Alderman Oakes stated that it has not been answered because this is a financial operation that they are managing and their votes, their decisions, have a big influence on the financial condition of this corporation.

Sam Painter stated that the folks who brought the original protest had the right to go to district court if they believed they had a case, but they did not do that. The original opinion of the county attorney's office has not changed, and he concurs with that opinion. There is no financial personal benefit flowing to the council members on the board or the mayor. No one is benefiting financially from this arrangement (audience booing). Therefore, he would recommend that no conflict exists and the council proceed with the vote.

An audience member interrupted at this time.

Mayor Olson stated that, at this time, the audience has had an opportunity to address the council during the public hearings. This is an opportunity for the council members to have discussion, and the legal advice, both the county attorney and the city's legal staff, has indicated that there is no foundation for a conflict of interest. That being the case, the council would move forward.

Alderman Oakes told Mayor Olson that they did not judge this on the basis that this is a financial institution where there could be millions of dollars involved here. He stated that this is not right.

Mayor Olson again stated that this has been reviewed by the assistant county attorney and the city's legal staff, and they have directed us that there is no problem with conflict of interest, and that the city should move forward. That being said, he continued his presentation and proceeded to tonight's vote.

Motion by Alderman Mace to approve Resolution No. R05-15, seconded by Alderman Fritzler. Alderwomen Johnson and Stevenson and Aldermen Easton, Fritzler, Poehls, and Mace voted aye. Alderman Oakes voted nay. Alderman Dart was absent. Motion carried 6-1.

Mayor Olson called for a brief recess as the audience exited, loudly expressing their disappointment in the result of the vote.

Mayor Olson called the meeting back to order at 7:56 p.m.

- **Resolution No. R05-16: A resolution conditionally approving Laurel Business Park Subdivision, Second Filing, Preliminary Plat.**

Motion by Alderman Easton to approve Resolution No. R05-16, seconded by Alderman Poehls. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

- **Resolution No. R05-17: A resolution of the City of Laurel expressing support for draft Bill LC 1724 and requesting that the Montana State Legislature adopts LC 1724 and presents it to the governor for signing.**

Motion by Alderman Oakes to approve Resolution No. R05-17, seconded by Alderman Poehls.

Mayor Olson asked the council's permission to present legislative items to the council under other or unscheduled matters in order to keep them aware of and discuss the issues when there is insufficient time to list the items on the agenda.

A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

- **Ordinance No. O05-02: An ordinance amending the zoning for Tract A, Certificate of Survey 826, (904 Yellowstone) from Residential Manufactured Home to Residential Tracts.**

Mayor Olson stated that the legal protest on this issue requires a three-quarters majority vote to approve the ordinance on final adoption.

Motion by Alderman Poehls to adopt Ordinance No. O05-02, seconded by Alderman Mace.

Alderman Fritzler asked if the council would be voting on the final adoption of this ordinance at this time. Mayor Olson stated that was correct.

Alderman Fritzler stated that, at the last council workshop, he commented on the fact that he thought there may be a problem with approving an ordinance such as this because it was inconsistent with the city's growth development plan. He had also mentioned some points about it being incongruent with its current usage. In this situation, there is an isolated area that is all zoned residential manufactured homes. To the east and south boundary, the property owned by Cenex Refinery is zoned industrial. To the north, the interstate provides a natural framing for this property. To the west, it is agriculture. The council is being asked to rezone one 4.64 acre certificate of survey to allow animals. This piece of property is located approximately in the middle of this whole manufactured homes community. Alderman Fritzler stated that it would be inconsistent with the Growth Management Plan if one piece of property was isolated and rezoned. He mentioned that he believed there would be some incongruence with the land usage. There are eight developed homes to the east, west, and south of this property, with residential developed home tracts almost entirely surrounding the 4.6 acres. He gave examples of what the rezoning would allow if this property were rezoned to residential tracts. The following examples were stated: ten horses or ten cows, or more if colts or calves were involved; forty sheep or goats, or more if lambs or kids were involved; sixteen

pigs, or more if piglets are involved; fifty fowl, such as chickens and ducks; or various combinations of the examples, depending on how they are rated from an animal units standpoint. Alderman Fritzler gave an analogy, which he stated would be impossible to accomplish and may not be very appropriate. He stated the analogy of the city taking one of its smaller city parks of five acres or less and rezoning it as residential tracts within the city limits. He can imagine that it would cause a public uproar. Alderman Fritzler commented regarding the High Point Subdivision. This situation is unlike what the council did in the High Point Subdivision where it was rezoned for animal units. The High Point Subdivision consists of approximately seventy one-acre plus lots, and all of the property owners were treated equally. In this situation, one certificate of survey in the center of this land would be treated unequally compared to the current zoning. Alderman Fritzler offered this information for the council's consideration.

Alderman Poehls commented that, as the City of Laurel continues to grow, it needs to follow the Growth Management Plan which was adopted. This would leave an island of four acres that would be difficult to handle as the city moves forward and continues to annex in other areas.

A roll call vote was taken on the motion to adopt Ordinance No. O05-02. All seven aldermen/women present voted nay. Motion defeated 7-0.

Laura Zahm, the applicant, asked what she was supposed to do with those four acres. She would like to receive a letter from each council member regarding what she is supposed to do with property if she cannot have a horse on it.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT):

Walter Murphrey, 403 Badger Square, thanked the council for their decision on the zone change request at 904 Yellowstone Avenue.

COUNCIL DISCUSSION:

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

Mayor Olson mentioned that the city is in discussion with the school district on the proposed school building and continues to address the issues that will impact the city. The next meeting is scheduled for Thursday, February 10th, at 4:30 p.m. at the administrative building. Mayor Olson welcomed the council to attend and he will report back to council on the outcome.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

Motion by Alderwoman Stevenson to adjourn the council meeting, seconded by Alderman Fritzler. A roll call vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

There being no further business to come before the council at this time, the meeting was adjourned at 7:09 p.m.

Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 15th day of February, 2005.

Kenneth E. Olson, Jr., Mayor

Attest:

Mary K. Embleton, Clerk-Treasurer