

MINUTES OF THE CITY COUNCIL OF LAUREL

October 4, 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 October 4, 2005.

COUNCIL MEMBERS PRESENT: Dick Fritzler Doug Poehls
 Gay Easton Mark Mace
 Jennifer Johnson Daniel Dart
 Norm Stamper

COUNCIL MEMBERS ABSENT: Kate Stevenson

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 Stamper to approve the minutes of the regular meeting of September 20, 2005, as presented, seconded by Alderman Mace. There was no public comment or council discussion. A vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

CORRESPONDENCE:

Laurel Chamber of Commerce: Agenda for Thursday, September 22, 2005; Statistics for August 2005.

Montana Department of Revenue: Application for Transfer of Ownership of Montana All-Alcoholic Beverage With Catering Endorsement License No. 03-044-94-3-002, DJ Steak Palace Bar & Grill, 305 East Main Street, Laurel, Yellowstone County, Montana.

Robert Robinson: Letter of September 21, 2005 regarding retraction of petition opposing the zone change of Lots 1-6, Block 3, Iron Horse Station Subdivision.

Yellowstone County Community Wildfire Protection Plan Working Group Committee Meeting minutes of September 15, 2005.

PUBLIC HEARINGS:

- **Ordinance No. O05-07:** Ordinance amending the official zoning map of the City of Laurel, Montana, to change the zoning of Lots 1-6, Block 3, Iron Horse Station Subdivision, an Addition to the City of Laurel, from Residential Limited Multi-Family to Community Commercial. (First reading – 09/06/2005)

Mayor Olson opened the public hearing.

Mayor Olson asked Cal Cumin to speak regarding the ordinance.

Cal Cumin stated that the request from the developer of Iron Horse Station Subdivision is to add additional commercial land to the southeast corner of the project. This is the area that is planned for an ~~nursing home~~ assisted living facility, and the developer plans a facility that will feed into that ~~nursing home~~ assisted living operation with the type of housing that is designed for cycle of life living. The developer met with various representatives of Laurel and it has been confirmed that St. John's is working on the project. Planning Board recommends approval of the zone change. Cal stated that the neighbors' opposition to the zone change has been rescinded.

Mayor Olson stated that the city's legal counsel reviewed the letter recanting the petition of protest and has determined that it is an acceptable letter of rescind for the protest.

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.

The second reading of Ordinance No. O05-07 will be on the council agenda on October 18, 2005.

- **Ordinance No. O05-08:** Ordinance amending the official zoning map of the City of Laurel, Montana, to change the zoning of Lots 1-17, Block 2, Iron Horse Station Subdivision, an Addition to the City of Laurel, from Residential 7500 to Residential Limited Multi-Family. (First reading – 09/06/2005)

Mayor Olson opened the public hearing.

Cal Cumin stated that, when the area of Iron Horse Station Subdivision was master planned, the lots along the Nutting Drainage District were not designed to include a right-of-way for the drainage district. However, the lots were not what the developer believed them to be and were restricted in size because the drainage way had to be shown. In the attempt to provide single story housing for the elderly, the developer asked that this row of blocks along the south side of Nutting Drain be changed from R7500 to allow duplexes in that area. This zoning request has not been a contentious issue.

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.

The second reading of Ordinance No. O05-08 will be on the council agenda on October 18, 2005.

- **Ordinance No. O05-09:** Ordinance amending the zoning ordinance of the City of Laurel, Montana, to allow additional dwelling units in residential zones by adding Section 17.08.035 to the Laurel Municipal Code and amending Table 17.16.010 of the Code to reflect same. (First reading – 09/06/2005)

Mayor Olson opened the public hearing.

Cal Cumin stated that the ordinance provides for additional dwelling units in single family areas as long as the existing structure of the residential unit does not change. All city building codes would have to be met and the conditional use process would be required. Cal reminded the council that he wanted to see the public's response to this issue, and he stated that the city public works office has indicated that it may not really be needed. He is not trying to ramrod it through but he wanted to see how people responded to it.

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.

The second reading of Ordinance No. O05-09 will be on the council agenda on October 18, 2005.

- **Ordinance No. O05-10:** Ordinance amending the zoning ordinance of the City of Laurel, Montana, to allow neighborhood convenience stores in residential zones by adding Section 17.08.305 to the Laurel Municipal Code and amending Table 17.16.010 of the Code to reflect same. (First reading – 09/06/2005)

Mayor Olson opened the public hearing.

Cal Cumin explained that this ordinance would allow “Mom and Pop” type operations in residential neighborhoods. Requests would be based on square footage. It would basically try to encourage people who have a residence in one part of a dwelling to open a small store for flowers, coffee, or

hairdressing in another part. Applicants have to apply for the use, describe what it is, describe the impact, and prove the need for the project. There would be conditions on parking, lighting, and garbage collection. A conditional use review, a complete building inspection, the public hearing process, and council approval would be required.

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.

The second reading of Ordinance No. O05-10 will be on the council agenda on October 18, 2005.

- **Budget amendments for the following funds:** General; City/County Planning; Employer Contribution – PERS; CDBG – Park Improvements; and Capital Improvements Fund.

Mayor Olson opened the public hearing.

Mayor Olson asked Clerk-Treasurer Mary Embleton to speak regarding the budget amendments.

Mary explained that the proposed budget amendments, which require a public hearing, are for increasing appropriations in some areas that either needed to be appropriated or were overlooked during the budgeting process.

The video arraignment equipment, which Chief Musson presented at a council workshop, is estimated to cost approximately \$13,000. The budget amendment proposal is to transfer \$13,000 from the General Fund to the Capital Improvements Fund to fund the purchase and installation of that equipment.

For the Planning Fund, in reviewing the summary schedules for the budgets for the final budget document, it was discovered that the cash reserve at the end of the year would have been over the amount allowed by law. It is necessary to propose an increase in appropriations for \$20,000 into the professional services line item. That would reduce the cash reserve from 100 percent to approximately 30 percent in order to comply with the state regulations for cash reserves in a mill-leveled fund.

The employer contribution in the PERS Fund needs to increase by \$250 for council PERS contributions, which was not budgeted. The \$250 comes from the reserves, so there is an increase in appropriation and not in revenues. The cash reserves will decrease by \$250. This is also a mill-leveled fund, so the public hearing is required.

In the CDBG Fund, the appropriation needs to increase by \$7,471 for the park improvements approved by the council. The monies were left from the work that was done in fiscal year ending June 30, 2005, so the remaining cash balance needs to be re-appropriated in order to finish the project in the new fiscal year. This will be offset by a decrease in cash reserves and in essence should zero out the fund when it is finished.

The CIP Fund will reflect the \$13,000 transfer from the General Fund for the video arraignment equipment. This will show as revenues in the CIP Fund and will be offset by the appropriation of \$13,000 and will have a net effect of zero on the cash reserves.

The budget amendment will be presented at the council meeting on October 18, 2005.

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 September 2005 in the amount of \$256,161.20.**
A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.

- **Clerk/Treasurer Revised Financial Statements for the month of June 2005.**
- **Approval of Payroll Register for PPE 09/25/2005 totaling \$102,331.46.**
- **Receiving the Committee Minutes into the Record.**

--Budget/Finance Committee minutes of September 6, 2005 were presented.

--Insurance Committee minutes of September 14, 2005 were presented.

--Emergency Services Committee minutes of September 26, 2005 were presented.

--Council Workshop minutes of September 27, 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 Poehls. There was no public comment or council discussion. A vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

CEREMONIAL CALENDAR: None.

REPORTS OF BOARDS AND COMMISSIONS: None.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT):

Larry Tanglen, *Laurel Outlook*, finds it interesting that a formal protest can be lodged, that a numerical requirement has to be met to file that protest, and that one person can sign a letter and submit it to the city council to speak on behalf of all the other people who filed the protest and that the protest can be rescinded on that basis. It may be essentially a moot point because he believes this is probably a good project that should be approved by the council, whether by a simple majority or by a super majority. He doubts that it would affect the outcome of the council's deliberations one way or the other. But it seems to him that it is unusual that one person can declare themselves to be a spokesman for everybody else and undo something that was done as a matter of record. He has discussed it with the mayor and it is one of those things that may be seen through a different pair of glasses.

Mayor Olson stated that, after Larry spoke with him, he contacted Sam Painter, the city's legal counsel, who advised that the position is a defensible one.

SCHEDULED MATTERS:

- Confirmation of Appointments: None.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT): None.

COUNCIL DISCUSSION:

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

Alderwoman Johnson mentioned that it is a disservice to see the broken flag staff in the council chambers. Mayor Olson stated that it would be addressed.

Alderwoman Johnson mentioned that, according to Chris Veis, a Billings councilman who works for DEQ, replacement of the water reservoir north of Laurel should be included in the CIP. The reservoir is getting old, will have to be replaced at some point, and the project will be costly.

Alderwoman Johnson reported on the League of Cities and Towns Conference last week in Helena. She presented some information regarding impact fees and how the fees are done in Missoula and Bozeman. Discussion followed. The Budget/Finance Committee is in the process of reviewing impact fees.

Mayor Olson thanked Alderwoman Johnson for her diligence and involvement in various conferences and meetings and for the reports which she presents to the council.

Alderman Fritzier stated that Larry Tanglen made a good point about the protest, and he questioned the process.

Mayor Olson stated that he contacted the city's legal counsel when that question was brought forward to him. Sam Painter said that he was comfortable in defending the issue. Mayor Olson thinks Larry is probably correct in his statement that the council will approve the request, and then the opportunity for protest would not be valid.

Keith Molyneaux, the legal counsel present at the meeting, had not discussed the issue with Sam. Keith stated that a valid protest was lodged through a petition. If someone protests this through legal action, the petition could be revisited. He thinks Sam believes it could be shown that the citizens that signed that petition initially would not support the position on the protest if it ever came to that again. According to Mr. Robinson, everyone that signed that petition has withdrawn their protest. Keith stated that Sam feels comfortable in defending the position that those people have withdrawn their protest.

Alderman Fritzier understands that but questioned that the people signed a protest but did not sign a release of the protest. A representative of the group says that they have withdrawn their protest, so there is not a release of the protest, just the release of the spokesman.

Keith agreed that if Mr. Robinson was diligent to collect all the signatures, it was possibly his duty to collect them again to recant the protest. Mr. Robinson signed the statement that he talked to the homeowners and the protest has been withdrawn. Keith knows that Mr. Robinson has been the representative of the group from the beginning. In previous public hearings, a citizen has been pseudo elected as a representative of a group to make a statement for neighbors, and it has always been taken in full faith and credit for what the person says on behalf of a group. He thinks Sam is comfortable with Mr. Robinson's representation of this group all along. If this came to legal action, it is defensible that the people are withdrawing their protest.

Alderwoman Johnson explained the sequence of events that led her to advise Mr. Robinson to write a letter recanting the legal protest for the public record.

Larry Tanglen stated that this is an opportunity for city government to show that it is committed to doing things in a proper and correct way. In his mind, it gives the appearance of a sloppy way to conduct public business. He realizes that he may see that differently than the council or the city. He does not feel that there is any dastardly thing that anybody is trying to do, but it would be an opportunity for city government to show that there is a process and a procedure to be followed and that, as the city's elected officials, the council is committed to doing that properly.

Mayor Olson stated that as the process goes forward, there are considerations for the opportunity to pledge that propriety, which he thinks is intact. If the protest were to come back and someone questioned the legality, it would be brought before a court and the validity of the process would be determined. He accepts the legal counsel on this decision. Mayor Olson realizes that there is a valid understanding of the final product.

Mayor Olson announced that, at the League of Cities and Towns Conference, Mary Embleton was elected president of the Montana Municipal Clerks, Treasurers, and Finance Officers Association for a two-year term. Mayor Olson congratulated Mary on the accomplishment.

Mary Embleton stated her appreciation for the opportunity. The Montana Municipal Clerks, Treasurers, and Finance Officers Association, MMCT&FOA, was founded in 1970 and has been a very active and vital part of municipal government in the State of Montana. The association has helped author and draft changes in state law and promoted education and professionalism for all clerks and treasurers throughout the State of Montana. Last spring, the association put on its 25th institute to offer training opportunities for clerks, treasures, and finance officers throughout Montana and Wyoming. The organization is accredited through the International Institute of Municipal Clerks, as well as affiliated with the GFOA and the APT of U.S. and Canada. Mary expressed the honor to be chosen to serve as the president for the next two years, and she will do her best to continue the long tradition of supporting education and professionalism for the city clerks, treasurers, and finance officers in the state. During the spring institute, educational opportunities are also offered for elected officials and city attorneys. She is proud to be a part of that organization.

Mayor Olson reminded the council of the joint meeting with the City of Billings, School District No. 2, and the Yellowstone County Commissioners on October 13th at 5:30 p.m. and asked the council for agenda items. The following items are on the agenda: Zimmerman Trail; update on Alder Avenue; and date for presentation on Metropolitan Planning Organization Processes (January 11, 2006).

Alderman Fritzler asked for a list of the individuals that will attend the meeting. A list will be provided to the council, and name tags will be used during the meeting.

A joint meeting with the Yellowstone County Commissioners and the Laurel School District is scheduled for Thursday, October 27th, at 5:30 p.m. Superintendent Middleton has been invited to present an update on the Middle School project.

Alderwoman Johnson suggested adding future fire substations to the agenda for the joint meeting. There was a brief discussion regarding the need for additional substations between Billings and Laurel.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

Motion by Alderman Easton to adjourn the council meeting, seconded by Alderman Mace. There was no public comment or council discussion. A 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 7:31 p.m.

Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 18th day of October, 2005.

Kenneth E. Olson, Jr., Mayor

Attest:

Mary K. Embleton, Clerk-Treasurer