

MINUTES OF THE CITY COUNCIL OF LAUREL

October 18, 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 18, 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 thanked Perry for ordering the new American and Montana flags for the council chambers.

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 October 4, 2005, as presented, seconded by Alderman Poehls. There was no public comment.

Alderman Fritzler stated that, in the minutes regarding the public hearing of Ordinance No. O05-07, the references to “nursing home” facility should be changed to “assisted living” facility.

Motion by Alderman Fritzler to amend the council minutes of October 4, 2005, to read “assisted living” facility instead of “nursing home” facility, seconded by Alderman Poehls. A vote was taken on the motion to amend the minutes. All seven aldermen/women present voted aye. Motion carried 7-0.

A vote was taken on the motion to approve the minutes of the regular meeting of October 4, 2005, as amended. All seven aldermen/women present voted aye. Motion carried 7-0.

CORRESPONDENCE:

Cable Montana: Service Report for August 2005

Newsline: September 2005 Newsletter of the Montana Department of Transportation

Montana Department of Commerce: Letter of October 6, 2005 regarding board meeting in Red Lodge on October 17, 2005.

Laurel Chamber of Commerce: Agenda for October 13, 2005; Minutes of September 22, 2005.

PUBLIC HEARING:

- **Ordinance No. O05-11: An ordinance amending Chapter 17.40 of the Laurel Municipal Code to eliminate the off-street parking requirement in the central district zone of Laurel.** (First reading – 09/20/2005)

Mayor Olson opened the public hearing.

Mayor Olson asked Cal Cumin to speak regarding the ordinance.

Cal Cumin stated that this proposal came out of the adopted Growth Management Plan of the City of Laurel, which recommends helping the businesses in the downtown area. One thing that came up while drafting the Growth Management Plan is that new businesses have to come up with new off-street parking requirements when they physically expand their plant or building in the downtown

area. This was seen as a detriment to the downtown area because it is very difficult to put a new business in the downtown and provide off-street parking because of the lack of off-street parking. After a public hearing at which there was no opposition, the Planning Board recommended that the requirement be eliminated in the central business district.

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. O05-11 will be on the council agenda on November 1, 2005.

- **Ordinance No. O05-12: An ordinance repealing Chapter 17.64 of the Laurel Municipal Code which provides for a Board of Adjustment.** (First reading – 09/20/2005)

Mayor Olson opened the public hearing.

Mayor Olson asked Cal Cumin to speak regarding the ordinance.

Cal Cumin stated that this proposal came from the Planning Board, which received no opposition at its advertised public hearing. The Board of Adjustment has been dysfunctional in Laurel for several years. Most of the power of the Board of Adjustment was previously taken by the city council when the council took away all the land use decisions from the Board of Adjustment. The Board of Adjustment was limited to review of lot coverage, fence setbacks, and similar minor items. However, it was difficult to get a Board of Adjustment meeting together and to get members to remain on the board. Since it is a quasi-legal body, it was placing the City of Laurel in a tenuous position in that the board was not working. State law indicates that the city does not have to have a Board of Adjustment but is allowed to have. The Planning Board's recommendation is to do away with the chapter on the Board of Adjustment. The issues of variances, setbacks, and height restrictions would go through the Planning Board for the legislative process, and then be presented to the council as the final arbiter.

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. O05-12 will be on the council agenda on November 1, 2005.

CONSENT ITEMS:

- **Clerk/Treasurer Financial Statements for the month of September 2005.**
- **Approval of Payroll Register for PPE 10/09/2005 totaling \$126,629.74.**
- **Receiving the Committee Reports into the Record.**

--Budget/Finance Committee minutes of September 20, 2005 were presented.

--City-County Planning Board minutes of October 6, 2005 were presented.

--Council Workshop minutes of October 11, 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 Dart. 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*, mentioned the upcoming election. He recently sent letters to council members that are up for election and asked them to stop by the Outlook to fill out a brief biographical sketch and have a picture taken. Alderman Poehls stopped by on Monday. Larry asked if he could distribute the sheets to the council members now and then take their pictures after the meeting. Mayor Olson allowed him to do so.

SCHEDULED MATTERS:

- **Confirmation of Appointments.**

Laurel Volunteer Fire Department:

Mayor Olson appointed Aaron Larson and Scott Barnhart as firemen for the Laurel Volunteer Fire Department.

Motion by Alderman Dart to approve the appointments of Aaron Larson and Scott Barnhart as firemen for the Laurel Volunteer Fire Department, seconded by Alderman Stamper. 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.

- **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.** Second reading. (First reading – 09/06/2005; Public hearing – 10/04/2005)

Motion by Alderman Stamper to adopt Ordinance No. O05-07, 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.

- **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.** Second reading. (First reading – 09/06/2005; Public hearing – 10/04/2005)

Motion by Alderman Fritzler to adopt Ordinance No. O05-08, 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.

- **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.** Second reading. (First reading – 09/06/2005; Public hearing – 10/04/2005)

Motion by Alderman Easton to adopt Ordinance No. O05-09, seconded by Alderman Stamper. There was no public comment.

Alderwoman Johnson stated that she has been all over the place on this issue. She finally came to the conclusion that she might approve of it if it were properly written. Prior to the meeting, Cal assured her that it is written tight enough so somebody cannot purchase a home and rent out both units. The home has to be occupied by the owner. With that resolved, she thinks it is worth a shot as it would make Laurel unique in allowing mother-in-law flats. If there is a problem, the ordinance could be changed.

Alderman Fritzler stated that this ordinance deals only with R7500 zoning. R6000 allows two homes on it, Limited Multi-Family allows four homes, and Multiple Family zoning allows more. This ordinance focuses on R7500. He appreciates what Alderwoman Johnson said about changing

things if they do not work right. He visualizes the possibility of someone using money to make that kind of improvement on a facility. If something happened in the family and the house sold with an apartment in it, he thinks the integrity of the current single-family code would be sacrificed. He stated that he feels strongly in the opposite direction.

Alderman Dart stated that he has never been opposed to the family situation. He thinks there is a real outreach to be able to have a family member in your home and help them out. However, there is the potential for a for-profit situation with people renting out the additional dwelling. The potential is there to jeopardize the innocence of our neighborhoods in this little town. Alderman Dart emphasized that we are far too ahead of the curve on this one. We are not Bozeman, and we are not Missoula. He thinks the council should consider the sanctity of Laurel's neighborhoods and kids and who is coming and going out of those neighborhoods. He asked the council to think very strongly about that.

A vote was taken on the motion. Alderwoman Johnson voted aye. Aldermen Fritzler, Easton, Stamper, Dart, Mace, and Poehls voted nay. Motion defeated 1-6.

- **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.** Second reading. (First reading – 09/06/2005; Public hearing – 10/04/2005)

Motion by Alderman Poehls to adopt Ordinance No. O05-10, seconded by Alderman Mace. Mayor Olson asked for public comment.

Dan Koch, 320 Colorado Avenue, talked about convenience stores in the neighborhood. He feels that the mom and pop stores of yesterday are gone, and big business has taken over. He does not think the owner would make enough money selling bread, pop, and candy, and would have to start selling items that were not necessarily within the approved parameters. He questioned who would enforce it, and stated his concern that there is no enforcement system here. If the owner cannot make a living, he might sell the property to somebody else that would use the commercial rated property in the neighborhood. There are convenience stores and businesses in approved areas. Dan's basic point is the lack of enforcement. He explained circumstances regarding a construction business and a computer business that are located in his neighborhood. Both businesses have grown and there is more traffic, more equipment, and more vehicles in the neighborhood as a result. He is concerned about having a commercial lot in a residential neighborhood.

Chuck Dickerson, 501 West 13th, mentioned that a convenience store was located across from the park behind a house on Montana Avenue and Sixth Street in the 1980's. The family-owned convenience store had a lot of trouble because it became a haven for kids to hang out. There were problems with shoplifting and litter. He stated that it was the consensus of the council at that time that it was not a good idea to have convenience stores in residential neighborhoods. He does not believe that residential areas are the proper place to have that type of business.

Cal Cumin, City Planner, stated that the council needs to consider the first gentleman's comments. Violations of the home occupation ordinance can be addressed through code enforcement. The process is that Cal writes a letter explaining the violation and the business license could be revoked. This neighborhood retail issue deals with only 1,000 or 2,000 square feet of a unit, not a whole lot. It does not require a whole lot zoned commercial, such as 7,000 square feet of commercial, which is the standard city-sized lot. The front porch or kitchen of a house could be used for a bakery, and it is not designed to be a super profit center. It is designed to deal with someone who likes to sell cakes, coffee, cookies, and this kind of thing. The delivery truck traffic would be minimal as he thinks these people would purchase their own supplies. These are not big businesses. They are just neighborhood convenience stores. The applicant would have to prove their market, and they are only allowed so many square feet per number of dwelling units in a neighborhood. They have to prove that to the council before approval would be granted. Cal thinks we need to think about neighborhoods and about what makes the community nice.

A vote was taken on the motion. All seven aldermen/women present voted nay. Motion defeated 0-7.

- **Ordinance No. O05-13: Ordinance amending Table 17.16.020 (setbacks) of the Laurel Municipal Code relating to corner residential lots.** First reading.

Mayor Olson asked Cal Cumin to present this to the council.

Cal stated that city corner lots are currently required to provide a back yard setback of 20 feet and a 20-foot side yard setback next to the street. This leaves very little usable, buildable space on a residential lot. Proposals have been received from a couple of developers in the Laurel area that would like to see it changed. The Planning Board held a public hearing and only received positive comments. The proposal is to change the back yard setback to five feet, which still meets the fire code provision to be five feet away from the property line, and therefore allow ten feet for access. This would not impede the clear vision areas.

Chuck Dickerson, 501 West 13th, asked Cal regarding visibility with a five-foot setback if a property owner installed a six-foot fence on the property.

Cal stated that the fence could not be erected and any request would have to go through the Planning Board and the city council.

Motion by Alderman Mace to adopt Ordinance No. O05-13, seconded by Alderman Dart. There was no further public comment or council discussion. A vote was taken on the motion. All seven aldermen/women present voted aye. Motion carried 7-0.

The public hearing of Ordinance No. O05-13 will be on the council agenda on November 15, 2005.

- **Resolution No. R05-104: Budget amendment resolution amending appropriations and revenues for various funds for fiscal year 2006.**

Motion by Alderwoman Johnson to approve Resolution No. R05-104, seconded by Alderman Fritzler. 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.

- **Resolution No. R05-105: A resolution approving and adopting the Revised and Restated Interlocal Agreement governing the Montana Municipal Insurance Authority with the City of Laurel.**

Motion by Alderman Stamper to approve Resolution No. R05-105, 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.

- **Resolution No. R05-106: Resolution granting conditional use to allow a manufactured home in a residential tracts zoning district specifically located at 1303 Old U.S. Highway 10 West.**

Motion by Alderman Dart to approve Resolution No. R05-106, seconded by Alderman Stamper.

Cal Cumin, City Planner, wanted to make sure that the proper description of this piece of land is included in the record. The address of 1303 Old U.S. Highway 10 West is the address of the old house that was torn down and replaced by this manufactured home. However, the conditional use applies to the nine-acre parcel on which this home sits. It is not just one little spot, but it includes the whole nine acres.

Alderman Poehls asked if the nine-acre parcel includes everything that is beyond the frontage of the highway.

Cal stated that it applies to all of that property. The description of the property is stated in Resolution No. R05-106. The conditional use allows for one manufactured home on the whole nine acres.

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

- **Resolution No. R05-107: A resolution authorizing the Mayor to sign Work Change Directives No. 1 through 5 with JTL Group, Inc. for the East First Street sewer line project in an amount totaling \$17,440.**

Motion by Alderman Poehls to approve Resolution No. R05-107, seconded by Alderman Dart. 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.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT): None.

COUNCIL DISCUSSION:

The Yellowstone County Community Wildfire Protection Plan Committee meeting is scheduled for Wednesday, October 19th, at Deaconess Hospital at 6:00 p.m.

Alderman Easton commented on the joint meeting with the City of Billings, the Yellowstone County Commissioners, the Billings School District, and the City of Laurel last week.

A joint meeting of the City of Laurel, the Yellowstone County Commissioners and the Laurel School District is scheduled for Thursday, October 27th. All council members will attend the joint meeting. Agenda items should be submitted to the council secretary soon.

Information regarding automated meter reading systems was distributed to the council prior to the meeting. Perry Asher explained that Johnson Controls will make a presentation at the council workshop on October 25th.

Mayor Olson commented on the Project HELP meeting held at city hall recently. Many parents and children attended the meeting, and the project is going forward.

The council retreat is scheduled for Friday and Saturday, November 18th and 19th. No meetings will be held on Sunday as previously announced. Perry Asher will be the facilitator for the retreat.

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 7:24 p.m.

Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 1st day of November, 2005.

Kenneth E. Olson, Jr., Mayor

Attest:

Mary K. Embleton, Clerk-Treasurer