

# MINUTES OF THE CITY COUNCIL OF LAUREL

April 4, 2006

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 April 4, 2006.

COUNCIL MEMBERS PRESENT:            Dick Fritzler            Doug Poehls  
   Kate Hart                Mark Mace  
   Gay Easton              Chuck Dickerson  
   Jennifer Johnson        Norm Stamper

COUNCIL MEMBERS ABSENT:            None

OTHER STAFF PRESENT:                Mary Embleton            Perry Asher  
   Keith Molyneaux        Terry Ruff  
   Scott Wilm                Kurt Markegard

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 March 21, 2006, as presented, seconded by Alderman Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

## **CORRESPONDENCE:**

Montana Department of Commerce: Information regarding Public Input Meetings on Housing and Community Development Needs.

Council of State Community Development Agencies: Weekly Member Update of March 17, 2006.

Montana Department of Environmental Quality: Letter of March 20, 2006 regarding final decision on a CHS Inc. hazardous waste permit modification request.

Office of the Governor: Information regarding Governor's Emergency Preparedness Summit in Billings on May 22-25, 2006.

Trese Patchell, TAC Energy Solutions: Letter of March 21, 2006 regarding Performance Contracting Services RFQ.

Cable Montana Service Reports for January, 2006

## **CONFIRMATION OF APPOINTMENTS:**

### **Laurel Volunteer Fire Department:**

Mayor Olson appointed Matt Wheeler, Travis Fox and Justin Laughery to the Laurel Volunteer Fire Department.

Motion by Alderman Poehls to approve the appointments of Matt Wheeler, Travis Fox, and Justin Laughery as firemen for the Laurel Volunteer Fire Department, seconded by Alderman Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

### **Presentation by Mayor Olson**

Mayor Olson asked Fire Chief Terry Ruff to come forward. Terry has served on the Laurel Volunteer Fire Department for sixteen years and has held an office for fifteen years.

At this time, Terry read a statement to the council. He mentioned the accomplishments of the department during the five years he served as fire chief. The department has met the needs of the city and the fire districts, and the bumper gear has been replaced. Grant monies have provided new radios, survival packs for wild land fires, a thermal imager, a vehicle exhaust system, and a CAV System for the engine truck. At the end of his statement, Terry informed the council that he had decided to step down as fire chief and would give the new fire chief his support. He thanked the council for its support over the years.

Mayor Olson presented Terry Ruff with a special plaque commemorating five years of service as the Fire Chief of the Laurel Volunteer Fire Department.

**Swearing-in Ceremony**

Mayor Olson held the swearing-in ceremony for Scott Wilm, the new Fire Chief of the Laurel Volunteer Fire Department.

**Yellowstone Historic Preservation Board:**

Mayor Olson appointed Jennifer Johnson to the Yellowstone Historic Preservation Board to complete the term ending December 31, 2006.

Motion by Alderwoman Hart to approve the appointment of Jennifer Johnson to the Yellowstone Historic Preservation Board to complete the term ending December 31, 2006, seconded by Alderman Fritzler. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

**Fire Department Officers for 2006-2007**

Mayor Olson appointed the Fire Department Officers for 2006-2007.

Motion by Alderman Easton to approve the appointment of the Fire Department Officers for 2006-2007, seconded by Alderman Dickerson. There was no public comment.

The Department Officers include: Fire Chief, Scott Wilm; 1<sup>st</sup> Assistant, John Meeks; 2<sup>nd</sup> Assistant, Jim Ziegler; 3<sup>rd</sup> Assistant, Terry Ruff; Equipment and Maintenance, Will Guentner, Jason Penne, Gary Gotshall; Fire Marshal, Gary Colley; Deputy Fire Marshals, Mike Zuhoski, Cory McIlvain, Derek Yeager; Fire Prevention Officer, Rick Gallegos; Fire Prevention Bureau, Chuck Sikel, Brian Weis, James VanNice; Training Officer, Kent Kulesa; 1<sup>st</sup> Assistant, Doug Fox; Assistants, Casey Barnhart, Duane Rehling, Shawn Besel, Jason Shover; Safety Officer, Will Guentner; Assistant, Rob Harris.

A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

**PUBLIC HEARING:** None.

**CONSENT ITEMS:**

- **Claims for the month of March 2006 in the amount of \$317,252.56.**  
A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.
- **Approval of Payroll Register for PPE 03/26/2006 totaling \$106,141.18.**
- **Receiving the Committee Reports into the Record.**
  - Budget/Finance Committee minutes of March 7, 2006 were presented.
  - Tree Board minutes of February 27, 2006 were presented.
  - Council Workshop minutes of March 28, 2006 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 eight aldermen/women present voted aye. Motion carried 8-0.

**CEREMONIAL CALENDAR:** Arbor Day Proclamation

Mayor Olson read an Arbor Day Proclamation, which proclaimed Friday, April 28<sup>th</sup>, as Arbor Day in the City of Laurel.

**REPORTS OF BOARDS AND COMMISSIONS:** None.

**AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT):** None.

The council meeting recessed from 6:52 p.m. to 6:56 p.m.

**SCHEDULED MATTERS:**

- **Resolution No. R06-32: A resolution accepting the bid for the purchase of a roll-off truck for the City of Laurel and authorizing the mayor to execute any requisite documents for such purchase.**

Motion by Alderman Dickerson to approve Resolution No. R06-32, seconded by Alderman Stamper. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

- **Resolution No. R06-35: A resolution authorizing the amendment of the agreement with Big Sky EDA to extend the term of the contract to December 31, 2007 and increasing the hourly fee to \$65.**

Motion by Alderman Fritzier to approve Resolution No. R06-35, seconded by Alderwoman Hart. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

- **Resolution No. R06-36: A resolution relating to the issuance of \$162,000 Special Improvement District No. 111 Bonds.**

Motion by Alderwoman Johnson to approve Resolution No. R06-36, seconded by Alderman Stamper. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

- **Resolution No. R06-37: A resolution selecting Johnson Controls for a performance contract including the installation of an automated meter reading system.**

Motion by Alderman Stamper to approve Resolution No. R06-37, seconded by Alderman Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

- **Resolution No. R06-38: A resolution extending the janitorial services contract with Laurel Carpet Cleaning & Upholstery for three years and increased fees.**

Motion by Alderman Easton to approve Resolution No. R06-38, seconded by Alderwoman Hart. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

- **Resolution No. R06-39: A resolution approving Task Order #11 for Morrison Maierle, Inc. to prepare grant application for upgrades to the waste water treatment plant.**

Motion by Alderwoman Hart to approve Resolution No. R06-39, seconded by Alderman Fritzier. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

- **Emergency Ordinance No. O06-02: An emergency ordinance to adopt the attached Schedule of Fees and Charges as immediately effective and enforceable, and to require the city to adopt a Schedule of Fees and Charges at least annually by resolution.**

Motion by Alderman Poehls to adopt Emergency Ordinance No. O06-02, seconded by Alderman Stamper. There was no public comment.

Alderman Dickerson asked if a public hearing would be held at the end of the ninety days of Emergency Ordinance No. O06-02. He expressed his concern that the public had not received an opportunity to give input on the fees and charges. He stated that the schedule of fees and charges attached to the ordinance (listing the new amounts) should be replaced by the schedule of fees and charges that listed both the current and the increased charges.

There was discussion regarding the charges for plan review, which was listed as 35 percent of the project valuation, charges for the community room in the library, and the business license for sexually oriented businesses.

Alderman Dickerson again stated that he wanted a public hearing at the end of the ninety days to give the public an opportunity to voice their opinion on it.

Keith stated that the ordinance sunsets after ninety days. Right now, all of the fees are established by resolution or ordinance and are scattered throughout the code book. The attorneys' task was to find a way to make all of these fees effective immediately under one document, and the only way legal counsel found to do that was through the emergency ordinance. If the ordinance is adopted, legal counsel will have ninety days to review all of the resolutions and ordinances to find the individual fees and get rid of the resolution or amend the ordinance. A public hearing will be held at the end of the ninety days when the new fee schedule is established. As far as notice, Keith stated that Ordinance No. O06-02 was on tonight's agenda, which has been posted since last week. Public comment was available tonight.

Alderman Dickerson questioned whether the public hearing will in essence address all of the ordinances that these changes affect, and Keith agreed that it would.

Alderwoman Johnson read the following statement: "Our fees and charges are probably outdated, and need some evaluation and revising, and moving all our fees and charges out of ordinance into a single schedule that may be changed by resolution may be a good idea. But what true emergency do we have at this time that would indicate we should bypass public scrutiny? Isn't involving and informing the public about these changes what good process for local government is all about? I am not able to support this measure at this time."

Mayor Olson stated that the opportunity to change fees was considered and needed to be brought forward before the beginning of the building season. The proposed fees are recommendations by the respective department heads and have been reviewed.

There was discussion regarding the change in fees for individuals who had been using the old fees.

Perry explained that things always change and all of the proposed changes are justified. The proposed building and plan review changes would be in line with the state and the county.

Alderman Dickerson does not doubt that research and review have been done, but he is concerned about changing the fee for people who have been told one fee and whether the old fee could be used if it is determined that it should not be increased.

Perry stated that the council could let it sunset.

Alderwoman Hart stated that the council has known for a long time that a lot of the fees just are not adequate for the personnel time it takes to do them. Given that the city's largest expense is personnel, it is important to charge fees that adequately cover the time spent. This may be an unusual way of getting the fees and charges together, but it is a necessary process.

Alderman Stamper asked if fees are typically set by ordinance with a public hearing. He thinks that a fee is not like a tax that affects every citizen. Looking at it with a business point of view, if a service is requested, the fee has to be set to cover the cost of that service. He understands what is being said about public comment, but he does not know if that is necessarily required for fees.

Keith explained that some of the fees were set by resolution and some by ordinance. Many fees have been set throughout the code for years and there is no requirement that they be set by ordinance initially and then amended by resolution. Ideally, it is preferable to set fees and charges by resolution so they can be enacted immediately. With the emergency ordinance, the schedule of fees and charges will have to be amended every year by resolution. As far as public notice, Keith again stated that it was on the agenda and there was public comment available tonight.

There was discussion regarding the increased planning fees. Perry explained that the City of Laurel's current fees are much lower than those of area cities and there was no conceivable way that the development review costs were covered by the fees. The city was subsidizing development essentially by not charging enough to cover our own costs. In addition, the costs for services of the building official and the building inspector far exceed what is charged for the services. This is not a tax. It is a fee for a service given by the city and the city is trying to recoup the costs of that service to the taxpayers.

Alderman Poehls stated that this is a wise decision since the building season is starting and the city should not subsidize the builders.

Alderwoman Johnson stated that, according to Montana Code, the emergency ordinance was enacted so that in the case of an emergency, a city could bypass the normal ordinance process and shorten the time. A two-thirds vote is required to adopt this ordinance. She questioned whether this is an emergency that Montana Code was enacted to do.

Keith stated that it just waives the public hearing and provides that the fee schedule be effective immediately.

Keith reiterated Sam's thoughts on the emergency nature of this. The main one is that there is no effective notice at this time to the public because the fees are so hard to find or decipher after all these years of being placed throughout the code by resolution or ordinance. Some have been amended or changed or adopted by formal or informal policy of a department head over the years. There is just no way to effectively provide notice to the public of what the fees are.

Alderman Dickerson stated that he is not saying he is against the new fee schedule. His concern is whether there will be a public review of the ordinance and the fee schedule.

Keith explained that, during the next ninety days, legal counsel has to review every fee set by this schedule and amend or revoke all ordinances and resolutions and pass new ones that supersede the litany of resolutions and ordinances that have already been passed. At the end of the ninety days, another fee ordinance that is amendable by resolution will be presented, and the council will have to vote on that every year. At that time, the public will be able to comment on those fees. The ordinance will have a first reading, a public hearing, and a second reading.

Perry Asher explained one last change that was requested on the bottom of the first page. Under the Fire Suppression Fees Charged to Non-Residents, there should be an additional line for Base Rate for Assist and Investigate for \$150.00.

Alderman Dickerson recommended that the copy of fees and charges be given to every department head.

Perry stated that would be done.

Motion by Alderman Poehls to amend the Schedule of Fees and Charges to include a Fire Department line item of \$150.00 for "Base Rate for Assist and Investigate," seconded by Alderman Dickerson. A roll call vote was taken on the motion. Alderwoman Hart and Aldermen Poehls, Mace, Dickerson, Stamper, Easton, and Fritzler voted aye. Alderwoman Johnson voted nay. Motion carried 7-1.

A vote was taken on the motion to adopt Emergency Ordinance No. O06-02. Alderwoman Hart and Aldermen Poehls, Mace, Dickerson, Stamper, Easton, and Fritzler voted aye. Alderwoman Johnson voted nay. Motion carried 7-1.

**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.

Alderman Dickerson suggested that the council budget for a digital camera to use for special occasions. This item will be discussed at the council workshop on April 11<sup>th</sup>.

Alderwoman Johnson stated that a representative should attend the Montana Mosquito Workshop in Bozeman on April 24<sup>th</sup> and 25<sup>th</sup>. The information would be valuable in the event of a mosquito problem in the City of Laurel.

Alderwoman Johnson received a call from a detective in the Billings Police Department. The detective, who lives across from Thomson Park, had the following suggestions regarding the picnic shelter in the park: 1) Post “No Skateboarding” signs; 2) Enclose the light fixtures in a protected manner; and 3) Post signs that close the park at 10:00 p.m. unless there is a special event. The signage would give the police department the ability to enforce the regulations.

There was further discussion regarding permanent installation of the picnic tables. This item will be discussed at the council workshop on April 11<sup>th</sup>. Protection for the light fixture on the flag was recently installed, and the park currently closes at 10:00 p.m.

The Arbor Day celebration will be held on Friday, April 28<sup>th</sup>. Several organizations and the schools will participate in the program, which is scheduled to begin at 1:00 p.m. Additional information will be available soon.

At Alderman Dickerson’s request, the issue of 12<sup>th</sup> Street west of Valley Drive will be put on the council workshop agenda on April 11<sup>th</sup>.

**UNSCHEDULED MATTERS:** None.

**ADJOURNMENT:**

Motion by Alderman Mace to adjourn the council meeting, seconded by Alderman Poehls. There was no public comment or council discussion. A vote was taken on the motion. All eight aldermen/women present voted aye. Motion carried 8-0.

There being no further business to come before the council at this time, the meeting was adjourned at 7:46 p.m.

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Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 18<sup>th</sup> day of April, 2006.

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Kenneth E. Olson, Jr., Mayor

Attest:

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Mary K. Embleton, Clerk-Treasurer