

MINUTES OF THE CITY COUNCIL OF LAUREL

July 17, 2007

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 July 17, 2007.

COUNCIL MEMBERS PRESENT: Emelie Eaton Doug Poehls
 Kate Hart
 Gay Easton Chuck Dickerson
 Vonda Hotchkiss Norm Stamper

COUNCIL MEMBERS ABSENT: Mark Mace

OTHER STAFF PRESENT: Mary Embleton
 Sam Painter

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 Council Member Eaton to approve the minutes of the regular meeting of July 3, 2007, as presented, seconded by Council Member Hart. There was no public comment or council discussion. A vote was taken on the motion. All seven council members present voted aye. Motion carried 7-0.

CORRESPONDENCE:

Cable Montana: Service Reports for April 2007; Service Reports for May 2007.

Gerald Shay, Chairman, Laurel City-County Planning Board: Letter of July 6, 2007 regarding moratorium on all planning issues.

PUBLIC HEARINGS:

- Water Facility Plan for the City of Laurel

Mayor Olson introduced Carl Anderson, Morrison-Maierle, Inc., to give a presentation on the Water Facility Plan.

Mr. Anderson gave a PowerPoint presentation to the council. A Water Facility Plan is needed to develop tools for effective decision-making and to insure that the City is eligible for low interest loans and State and Federal grants. The Scope of the Facility Plan includes assessment of the current situation, assessment of future situations, development and evaluation of alternatives, and development of an implementation plan. Carl spoke regarding the following: population estimates; the existing water distribution system; health and safety concerns; the existing water treatment plant; the river intake; the raw water pump station, flow measurements and chemical addition, the flocculation and sedimentation basins, filtration issues, treatment plant storage, the sludge pond, the control/filter building, and health/safety and occupational concerns. Carl stated that the Phase 1 improvements should be done in 2008. Phase 1 includes filtration upgrades to the existing filters and high service pump station improvements at a projected cost of \$933,000. Carl suggested that the water system improvements in Phase 2 should be completed in 2009/2010 at an estimated cost of \$12,311,000. Phase 2 improvements include replacement of four-inch mains, which he stated should be done on an annual basis. Other improvements included in Phase 2 are the upper zone storage and pump station, the emergency generator at the existing booster station, replacement of the flocculation and sedimentation basins, and an additional mixing structure. Phase 3 improvements, which are projected for completion beyond 2010, include distribution system items at a cost of \$9,634,000. Carl stated that there are a lot of needs in the city's water system.

Mayor Olson asked if the council had any questions for Mr. Anderson. There were none.

Mayor Olson asked if there was any public input.

Bruce Swanson, 417 South First Avenue, asked if Morrison-Maierle participated in any of the previous construction projects. Carl stated that the chlorine contact basin project was done by Morrison-Maierle, who has done engineering for the City of Laurel during the last five to ten years. There was further discussion between Carl Anderson and Bruce Swanson regarding pumps. Bruce stated that the infrastructure does not last very long as compared to the infrastructure in London.

Mayor Olson asked if there were any further public input. There was none.

Mayor Olson closed the public hearing.

When Council Member Dickerson stated that he did not understand Bruce Swanson's name, Mr. Swanson introduced himself again. Mr. Swanson then asked Carl Anderson regarding the amount of water the city supplies to Cenex, and there was further discussion.

Mayor Olson thanked Carl for the presentation.

- Ordinance No. O07-08: Ordinance amending the Form of Municipal Government in the City of Laurel, County of Yellowstone, Montana. (First reading – 06/19/2007)

Mayor Olson opened the public hearing on Ordinance No. O07-08, which would place a proposed city charter on the November 6th ballot for voter consideration. This ordinance was approved on first reading on July 3, 2007, and is scheduled for second reading and possible adoption on August 7, 2007. The purpose of the public hearing is to provide an opportunity for all interested citizens to participate and comment before the final decision will be made by the city council to place a proposed charter on the November 6, 2007, ballot for voter consideration. Copies of the draft charter are available now. The consultants who have assisted the mayor and council in the development of a charter have provided several different options concerning an appropriate plan of government to be included in the charter. After considerable input from the city staff and from citizens and a lot of council discussion, Mayor Olson stated that the city has settled upon a continuation of the present council-mayor plan of government currently in place in the City of Laurel. The proposed charter will continue that familiar plan of government with an elected mayor and city council but with the addition of an appointed, well-qualified chief administrative officer to assist the mayor in dealing with the growing complexity of a growing community.

Mayor Olson introduced Dr. Ken Weaver and Judy Mathre of Local Government Associates to answer questions on the proposed charter.

Mayor Olson asked if the council had any questions.

Council Member Dickerson asked two questions. The first question was regarding Section 3.09 Grounds for Removal of the Mayor, which states that "the mayor may be removed from office by a finding of a majority of the entire council that, pursuant to law, there is a vacancy in the office of mayor." He asked if the verbiage could be changed to "the mayor may be removed from office by a finding of a super majority of the entire council." The second question was regarding Section 3.10 Chief Administrative Officer, which states that "there shall be a chief administrative officer appointed by written contract." Council Member Dickerson asked if the wording could be changed to "there may be a chief administrative officer appointed by written contract."

Dr. Weaver, the President of Local Government Associates, and his colleague, Judy Mathre, are consultants on matters of local government for smaller jurisdictions. They have worked with every municipality and all fifty-six counties over the past twenty-five years in training, technical assistance, or other modes of consultation.

Before Dr. Weaver answered Council Member Dickerson's questions, he stated that they have provided the council with a number of optional plans of government that the council considered. He understands that the council has probably settled on the most recent option to be included in the charter, which is the continuation of the present council-mayor plan of government. Therefore, the charter includes language describing that plan of government drawn directly from statute. There is very little difference between the statute and the charter describing the council-mayor plan of

government, which continues the elected mayor and the elected council as the principal legislative-executive structures of the government.

Dr. Weaver addressed Council Member Dickerson's second question first. Section 3.10 presently reads "there shall be a chief administrative officer" and could be changed to "there may be a chief administrative officer." Dr. Weaver stated that, in his view, it is a matter of discretion of the council and mayor. His recommendation is that the verbiage should be changed to "may" in order to provide the kind of flexibility that might be needed.

Regarding the question concerning the removal of the mayor from office, Dr. Weaver gave some history on that statute. The statute requires that the chief administrative and chief executive officers be identified in the charter, which they are. Also, the grounds for the removal of the mayor, the chief executive officer, must be stated in the charter. The causes for a vacancy to exist in an executive or legislative office are listed in statute. The list includes a felony, being confined to the supervision of the state, not performing the duties for some period of time, and leaving the jurisdiction without the permission of the legislative body for some period of time (ten days). Rather than restate those, given the fact that the legislature has the propensity to change local government law and cause a conflict between the charter and the law, the charter states that the council, by a majority or super majority, would have to make a finding based on fact and the law under proper legal counsel that a vacancy exists for whatever reason is enumerated in the statute. Dr. Weaver addressed the question of whether the verbiage could be changed to read a "super majority." Statute states that "an office becomes vacant on the happening of any of the following events before the expiration of term of office" and the events are listed. If an event occurred, the legislative body, as a foundation for an action, is required to make a finding that the fact has occurred. There is no statutory requirement that would require merely a majority of the council members. A majority of the council members means a quorum of members present at a lawful meeting, which would be five members. A majority of five is three. Strictly speaking, the way it is written right now, as few as three votes could make the findings, create a vacancy, and then move to fill the vacancy. Dr. Weaver stated that he likes the recommendation, but it is a policy judgment for the council. He then suggested that a definite number of affirmative votes be included to make it absolutely clear in the charter. With an eight-member council, five would be a majority and a super majority could be six, seven, or eight. Unanimity could be required.

Mayor Olson stated that the entire charter would be on the July 31st council workshop for further discussion.

Council Member Poehls asked regarding Section 3.07 Compensation of the Mayor, which states that "the compensation of the mayor shall be set annually by ordinance." An ordinance requires a first reading, public hearing, and second reading.

Dr. Weaver actually rewrote that statute, which used to say ordinance because it was done in conjunction with the budgeting process. However, most municipalities probably adopt the mayor's compensation by resolution. An ordinance would assure the public ample opportunity to voice an opinion. Public voters are sensitive to the compensation of the local officials.

The compensation of the mayor is currently done by resolution in the budget process. Dr. Weaver recommended that the adjustment of the mayor's compensation should be separated from the budget resolution, as he does not like "putting multiple legislative eggs in one basket."

Council Member Hart asked Dr. Weaver to explain to the public and the council what exactly the public will be asked to vote on.

Dr. Weaver stated that the ballot language must be worded as specified in statute. The first ballot choice for the voter will be "FOR adoption of the self-government charter for the City of Laurel as proposed by the Mayor and City Council of the City of Laurel." That is the proposed charter for the adoption of a self-government charter. If the voters approve that, it will be the new form of government. Voters do not vote for or against the issue. Voters could vote for the present form. There is an historic reason for that. In 1976, with the first voter review process under the 1972 constitution, the voters were required to choose between the current form of government and what was proposed by a study commission. The language enables the city council to amend that previously established and amended plan of government. The vote is not a simple "For" or "Against", but it is an affirmative vote one way or the other. It would be an affirmation of the present form of government or an affirmation of what is proposed by the mayor and council under the charter. In that regard, the public would vote for a continuation of the present plan of

government (mayor-council) with the addition of the option for the council to create the position of a chief administrative officer. In a growing community, there may be a need for that due to increasing demands of a very complex governing process made more complicated by rapid growth. Voters will also be voting on the words "self-government". The Montana 1972 Constitution says that, if a charter is adopted, self-government powers are automatically acquired. There are about thirty-three charters now and all have self-government powers. There are also some municipal governments, no county governments, that have acquired self-government powers without a charter. However, Dr. Weaver does not recommend the acquisition of self-government powers without a charter to restrict or constrain or limit, particularly with respect to taxation.

Dr. Weaver summarized by saying that the public would be voting on the question of the continuation of the present plan of government with the additional option available to the government of creating the position of chief administrative officer. Secondly, they are voting on the question to acquire self-government powers in order to provide future governments with whatever authority may be needed to deal with a particular situation without waiting for the legislature to convene two years later. If the power has not been delegated, a city may not exercise it under general powers. Self-government turns it upside down unless it has been prohibited.

Mayor Olson asked for further questions or comments from the council.

Dr. Weaver stated that Judy has prepared a few words regarding a charter.

Judy stated that there were no charters prior to 1972 because they were not authorized until the new constitution was established. The new constitution provided for charters which are basically local constitutions that describe the plan of government, including the powers and a description of the legislative and executive branches. The charter also establishes self-government powers. Laurel currently operates under general government powers, as described in Title 7. Some local communities have self-government powers without a charter, but they altered their form of government and adopted an amendment which allowed them to do so. Understanding the structure of government becomes critical when people do not understand how things work. The proposed charter, which could still be changed, makes the plan of government transparent. In terms of educating the public, the charter makes it easier for the public to know exactly how the form of government operates. Judy stated that more local jurisdictions are adopting a charter. In terms of change, Judy and Dr. Weaver have noticed that charters tend to stabilize the form of government. Rather than making extreme changes, the governments with charters typically put small amendments on the ballot. The main difference between the current plan of government and what is proposed is the establishment of the office of the chief administrative officer. Judy stated that charters allow some flexibility that is not allowed with the statutory form of government. The Town of Circle established six-year terms for elected officials, which would not be allowed under the statutory form.

Mayor Olson asked if there were any further questions or comments from the council. There were none.

Mayor Olson stated that members of the public would have three minutes to speak. Mayor Olson asked three times if there were any proponents.

Bruce Swanson, 417 South First Avenue, addressed the council to provide a context for when he spoke as an opponent. He stated that generally a lot of experience and expertise goes into the creation of something like this. In the background is someone like Dr. Weaver that speaks with considerable authority and there are always smart people in the process. Generally, what is forthcoming is the result of experience and intelligence and he recognizes that. When he speaks as an opponent, he stated that it is a matter of focusing on what he considers significant detail that could be improved. He recognizes that this is a laudable work and he will be criticizing it later.

Mayor Olson asked if there were any other proponents.

Milt Wester owns the local newspaper, property, and a business in the city limits. He spoke as a proponent of good city government. He stated that parts of this are fine and he has problems with other parts. He thinks that the city is rushing into this and stated that it would be done better with city review or government review, which is not available at this time. It would provide the time necessary to develop a good plan. Milt attended a council meeting last month and watched the council vote for a charter, which he stated was for a city manager form of government. Now the council is discussing something completely different. He is not opposed to the change, but he is thinks it is being done too fast. Tonight's meeting is encouraging because questions have been

asked and there has been discussion. He does not want to see the city rush headlong into some forced deadline required to get this on the ballot at a certain time. He understands the time constraints but would hate to see a mistake. He encouraged the council to discuss and debate the issue. Three council members voted against the ordinance, but he does not know why. Milt stated that the residents are relying on the council to develop a form of government that will carry the city on for many years to come, and he does not want to see council members leave without being involved in the whole process. That is what the city voted the council members in to do. Milt has not been impressed with city manager forms of government. This looks better, but it needs some work.

Mayor Olson asked if there were any other proponents.

Sue Carter, 307 Sixth Avenue, asked how the present form of government would be worded for the general public on the ballot. She stated that the general public does not have knowledge of the statutes.

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

Mayor Olson asked if there were any opponents.

Bruce Swanson, 417 South First Avenue, spoke again. He stated that the things he objects to are small. There will be eight people on the council. He participated in putting together a couple constitutions, and good dynamics have shown that in general when there are more than seven people in a group, it starts to break up into factions. So he recommends six councilmen and the mayor rather than eight and the mayor. That is about the limit to make a good cohesive group. Bruce has watched the city manager form of government and it functions very much like a school district. He explained the idea that a hatchet man (superintendent or city manager) is hired to do the heavy handed things that the board would like to do but really does not want to put the public face on. Then the guy uses up all his capital and goodwill and moves on somewhere else. Bruce stated that the council seems to be absolutely determined to put in a city manager, call him the chief administrative officer, and to allow the mayor to delegate powers to this person. Imbedded in this you have the city council. This is a city manager form of government. It is not overt, but it is covert. He also spoke regarding giving the mayor the power to fire people unilaterally. He is retired now, but he put a lot of years in the work force and said some people like the kind of environment where you rule people. He stated that people are far more productive if they do not feel that their fate is absolutely bound up in the whims of a single person. The purpose here is to provide public service and there will be have higher morale with a better temperament to the whole group if the power to hire and fire is not in the hands of a single person.

Mayor Olson asked if there were any other opponents.

Milt Wester, publisher of the Laurel Outlook, asked Dr. Weaver if, once the city has formed a charter and has established the mayor, city council, chief administrative officer type of government, the city council could change the form of government by a simple vote without taking it to the public for a vote.

Dr. Weaver said that could not be done, as the charter can only be amended by a vote of the people.

Dr. Weaver asked Sue Carter if her question was answered.

Sue stated that this would take some education to tell people about this.

Dr. Weaver stated that the language on the ballot is constrained by law. He has given Mayor Olson a booklet of documentation which includes communication of the pros and cons. A copy of the charter, a copy of the statutory version of the present plan of government, as well as a comparison of the two, and a certificate dealing with the apportionment of the four existing council member districts will be available. The four existing council member districts each have two elected council members elected to four-year overlapping terms of office, resulting in a council of eight members. Dr. Weaver stated that the council has worked hard on this issue. At the last meeting, Dr. Weaver told the council that its work was just beginning because of the need to educate the community. He knows from experience that when a voter does not understand a ballot question, they vote no. A sufficient level of understanding is necessary and that is a job that only the council can do.

Mayor Olson asked if there were any other opponents.

Bruce Swanson spoke again. He offered an alternative to the covert city manager built into the charter. The problem with the current government is that the mayor generally has to carry quite a load. He suggested establishing an operations council made up of the mayor and the top three or four employees, the different department heads, and turn over the operations of the city to this council. Let the operations council run the city with the mayor overseeing it and the council doing its overview as well.

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

Mayor Olson stated that the public hearing would be continued to August 7, 2007, at which time the council will make a decision.

At 8:06 p.m., Mayor Olson recessed the meeting. Mayor Olson called the council meeting back to order at 8:11 p.m.

CONSENT ITEMS:

- **Clerk/Treasurer Financial Statements for the month of June, 2007.**
- **Approval of Payroll Register for PPE 07/01/2007 totaling \$160,149.35.**
- **Receiving the Committee Reports into the Record.**

--Budget/Finance Committee minutes of July 3, 2007 were presented.

--City-County Planning Board minutes of July 5, 2007 were presented.

--Council Workshop minutes of July 10, 2007 were presented.

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

Motion by Council Member Hart to approve the consent items as presented, seconded by Council Member Poehls. There was no public comment or council discussion. A vote was taken on the motion. All seven council members present voted aye. Motion carried 7-0.

CEREMONIAL CALENDAR: None.

REPORTS OF BOARDS AND COMMISSIONS: None.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT): None.

SCHEDULED MATTERS:

- **Confirmation of Appointments:** None.
- **Ordinance No. O07-07: An ordinance approving the recodification of ordinances adopted by the City Council that have been compiled as the “Laurel Municipal Code” in accordance with MCA § 7-5-107.** Second reading.

Motion by Council Member Easton to adopt Ordinance No. O07-97, seconded by Council Member Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All seven council members present voted aye. Motion carried 7-0.

- **Resolution No. R07-55: A resolution authorizing the Mayor to sign a contract with the Montana Department of Commerce Treasure State Endowment Program for the City’s Wastewater Improvement Project.**

Motion by Council Member Hotchkiss to approve Resolution No. R07-55, seconded by Council Member Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All seven council members present voted aye. Motion carried 7-0.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT): None.

COUNCIL DISCUSSION:

Council Member Stamper stated that workshops and meetings are open to the public, which includes city employees. He asked if it might be prudent to invite city employees that may have questions and concerns regarding the change in government to the next council workshop to have an opportunity to ask questions.

Mayor Olson agreed and will extend the opportunity to city employees. Department heads had the opportunity to speak with Dr. Weaver and Judy Mathre last Friday, but it was not extended to employees at that time.

Council Member Stamper stated that it is something that could cause some concern, and he thinks employees should have an opportunity to speak and question. Copies of the proposed charter will be distributed to the various city locations for employees to review.

Council Member Easton commended the panel that did the community assessment listening sessions last week. They did a good job in all facets of the city and its different departments.

Mayor Olson was impressed with the panel and with the participation by the council. It shows that the city government is trying to be part of the solution. The city has been exposed to outside judgment and has an opportunity to go forward from this.

Council Member Hart asked regarding Dr. Weaver's reference to a pamphlet. Mayor Olson stated that the information is on a disk and will be distributed soon.

Council Member Eaton requested that the City of Billings' revised Annexation Policy be discussed at the next council workshop.

Emelie attended the Yellowstone Historic Preservation Board meeting today. When David Green spoke to the council recently, he proposed that the city adopt an ordinance that said the City of Laurel would notify the Board when an older building was going to be torn down so it could be photographed and documented. An individual at today's meeting has been contacting someone from the City of Laurel, but Council Member Eaton did not have a chance to contact that individual to find out who he is speaking with in the City of Laurel. She requested that this item be on the July 31st council workshop agenda. At the meeting this morning, Council Member Eaton found out that there are several different areas that the Historical Board is considering getting on the National Register of Historic Places. There are some buildings in Laurel and there are also some places that we consider Laurel, which are not actually in the city limits. She will talk to Mayor Olson regarding this, as it could be timed with the city's 100-year anniversary.

Mayor Olson mentioned that Blaine Dantic went through the historic preservation process recently with a house on Fourth Avenue.

Council Member is unable to receive e-mail and requested that documents be put in his mailbox at city hall and/or a phone call be made until the problems are resolved.

Council Member Poehls asked for an update regarding the asphalt plant, as he recently heard that a contract was received to disassemble the plant. The update will be on the July 31st council workshop agenda.

Council Member Hotchkiss mentioned some issues with large potholes on Southeast 4th Street and on Milwaukee Avenue. There was discussion regarding the potholes in Laurel and the process to get them filled. Mayor Olson stated that the Public Works Department has a schedule to fill the potholes and is working diligently to do so. He encouraged the council to have constituents contact the Public Works Department with any complaints. An update on the schedule and process will be given at the council workshop on July 31st.

Council Member Poehls stated that there would be no Emergency Services Committee meeting this month.

Mayor Olson stated that the next council workshop is scheduled for July 31st.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

Motion by Council Member Stamper to adjourn the council meeting, seconded by Council Member Poehls. There was no public comment or council discussion. A vote was taken on the motion. All seven council members 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 8:32 p.m.

Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 7th day of August, 2007.

Kenneth E. Olson, Jr., Mayor

Attest:

Mary K. Embleton, Clerk-Treasurer