

MINUTES OF THE CITY COUNCIL OF LAUREL

February 15, 2011

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 15, 2011.

COUNCIL MEMBERS PRESENT:

Kate Hart	Doug Poehls
Chuck Rodgers	Mark Mace
Tom Nelson	Chuck Dickerson
	Norm Stamper

COUNCIL MEMBERS ABSENT:

Emelie Eaton

OTHER STAFF PRESENT:

Brooke Baracker-Taylor
Kurt Markegard Rick Musson

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 Nelson to approve the minutes of the regular meeting of February 1, 2011, as presented, seconded by Council Member Rodgers. There was no public comment or council discussion. A vote was taken on the motion. All council members present voted aye. Motion carried 7-0.

CORRESPONDENCE:

Girl Scout Troop 2226: Letter regarding puddles at crosswalks of schools, due to ice pack. This item will be on the next Council Workshop agenda.

PUBLIC HEARING:

- Ordinance No. O11-01: Ordinance No. O11-01: An ordinance of the City Council of the City of Laurel, Montana, amending certain portions of the City's zoning code located at Title 17 in the Laurel Municipal Code relating to medical marijuana businesses within the zoning jurisdiction of the Laurel/Yellowstone City/County Planning Board. (First reading 02/01/2011)

The Mayor read Ordinance No. O11-01.

Mayor Olson opened the public hearing and read the rules governing the public hearing.

Mayor Olson asked four times for any proponents. There were none.

Mayor Olson asked for opponents.

Jean Kerr, 1128 9th Avenue, City Judge, is opposed to the city opening up storefronts to medical marijuana and amending our ordinance accordingly. There is a lot of growing going on in this town and anyone who has a card can grow their own. Marijuana can be purchased in the medical corridor in Billings, as well as be delivered from the provider. There is a negative impact in Laurel from the other crime that goes along with addiction. There is aggression, partner member assault, DUI, and destruction of property. There are also more people in need of chemical dependency treatment. Marijuana and alcohol go hand-in-hand and she sees more of that going through the court system. Accountability court is being set up and will start running to help people with addiction concerns. Marijuana has a higher level of THC than it did years ago. She is meeting young people with cards, who are also in treatment for alcohol. Scientific studies show youth, along with the adult population, are coming up with psychosis and bi-polar disease from this addiction. When people become clean and sober, often the diagnosis goes away, which shows it was drug induced. It is found to affect

learning and a person's ability for recall. Employers are testing for marijuana and another issue is, what happens if someone gets hurt on the job. She feels it could undermine the police department and we may need a drug enforcement agent on staff. If so, we need to back them and not encourage the drug sales in town. She feels we could defend ourselves in a lawsuit.

Duane Guenther, 412 Birch Avenue, is against passing any ordinance to allow medical marijuana in our town. There is a saying, "not in our town" and he feels this way. There is a use for marijuana in certain instances. People are going to open up these businesses as wholesale operations and there is money to be made. The city probably wants to cash in on some of this, but not in our town. A young driver gets stopped and they detect marijuana in the car, and he says he has a card, but the kid sitting in the car doesn't have a card and he is under the influence. People that are not in need of the help you can get from marijuana are being supplied by the people who are growing it. This is shown by the number of increased cards from two to thirty thousand. When this bill was introduced, it was too wide open, a blank check, with no strings attached. Some towns may find it appealing, but not in our town.

Lee Richardson, 115 E. 13th Street, has been here before on this issue. He e-mailed Mark Long, Narcotics Chief with the Montana Dept. of Justice, with some questions. He reviewed the questions and response for the council and then submitted a written copy to the council. He questioned how many card holders have it for legitimate chronic pain and Mark's response was that 90% fall in the chronic pain category, but no one is able to determine if it is legitimate or not, other than the doctor who made the recommendation. He also asked if it is true that the Board of Medical Examiners is unable to get the names of the physicians that recommend the card and how many cards they have authorized. Mark responded that this is true, even law enforcement cannot get this information. There is also specific language in the law that forbids any sanction (criminal, civil, or disciplinary) against any physician for issuing cards. Another question was whether six plants can supply more than 1-ounce per day and Mark replied that this is one of the many problems in the law. A patient is allowed 1-ounce but there is no language that specifies how often that patient can get one ounce. A patient can legally obtain an ounce every hour, if needed. Also, growers are not required to report the grow locations to anyone and they are not even required to list a physical location on their application. Most use post office boxes. It's one of the big hurdles for cities to deal with enforcement of codes, when you don't know where they are. There is talk of repealing the law but if that doesn't go through, he hopes there is some serious measure to try and control it.

At this time, Jason Smith, a proponent, wanted to speak. The Mayor said he asked for proponents earlier and he did not come forward. We are now taking testimony from opponents, but he will allow him to speak after the opponents are done.

Cindy Sellers, 1106 12th Avenue, is strongly opposed to having medical marijuana come into our town. You can open a newspaper and see what problems it causes for others. Our city council needs to take a leading role and not follow what other counties, cities or states are doing. They need to come forward and say, we are not going to allow this. She is the mother of a 17 year old son who brings stories home from school, that are frightening, about the access these kids have to this drug. We don't need to hand it to them on a silver platter. We need to buckle down and say this is not going to happen here. We don't need or want it here.

Gretchen Paulson, 1103 Davis Circle, is opposed to this. She was not living in the state when it was passed. Her assumption is that people voted for it for the two thousand people who really need it, not for the 28 thousand that have it. She has two very young children and she does not want them to be near it. She doesn't want it to be something they ride their bikes by every day or walk by on the way to the ice cream store. It might be good for the city and bring revenue to the city, but it is not good.

Donna Wagner, 1043 Montana Avenue, voted for it and thought she was voting for something for people who have a real need with chronic pain, nausea and mental problems. We found out there are no guidelines in anything the legislature passed and it has gotten to be an absolute mess. The legislature needs to repeal this and start over at square one. Our kids have enough pressures in their lives without having a marijuana shop on the corner.

Vera Ulschak, 1428 Emerick Lane, is opposed to this. When it was voted on, there were suppose to be guidelines and strict regulations. The guidelines we have seen are very few and the legislature is reviewing it. We should not make any decision about allowing this in our town until the legislature decides on it. Billings is 15 miles away and if a person needs it medically, they can get it there.

Mary Ann Guenther, 412 Birch, is against it and wants to see it repealed.

Barb Farnes, 510 Date, opposes it. She has grandchildren and doesn't want to have to worry about them and who does or doesn't have marijuana. Please, do not let this go through.

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

At this time, Mayor Olson opened it up for proponents.

Jason Smith, 623 Beverly Hill Boulevard in Billings, is representing Montana Advanced Caregivers at 137 Moore Lane in Billings. He feels outnumbered and acknowledges that when you voted for this, you had the right intentions. Just because there has been abuse, people feel the way they do and it is pretty much valid. This law was designed and built out of compassion and is no different than the one being debated on assisted suicide. The way to get a handle on it is to regulate it. A lot of people are worried about their children, but the best way is to start by educating yourself. If you can educate yourself and regulate it, then it is possible to educate your children. There is a lot of abuse and he has heard a lot about it being a stepping stone drug. If you have that tendency or weakness in your life, even if it is not allowed or repealed, it does not mean your tendency is going away. There has always been marijuana in our society and we need it regulated. He has a shop with an open door policy and invites anyone to come in and get educated. He works really hard with the agricultural industry, Montana State University, the University of West Virginia and the legislature. The law probably will not get repealed, because the door has been opened. He has only been in Montana for 1½ years and he is sure the people heard the same thing about casinos and schools. The law was not designed to generate revenue, it is out of compassion. There are a few people in Laurel who have a real need for it, but there is no public transportation. Maybe it could be worded as a compassion club, as Canada does. If you're talking economy, it could generate a lot of dollars. He has put \$250,000 in the community of Billings. There is money in it from the doctor's standpoint and the medical board should be regulating and controlling it. The police are responsible for investigating it. He asked the public to have an open mind.

David Scheveck, 8307 Danford Road, is here to speak for his son. He has heard some parents speak about not wanting their children driving by a dispensary; they don't want their children exposed to marijuana. Is that any worse than children driving by a casino? What signal are we sending to our kids, we sell tobacco and alcohol that kills more than what marijuana has ever killed. He heard on the news that over 300 people have been killed by prescription drugs in Montana. This is more than heroin, cocaine, and meth combined. It needs to be zoned, the law says people can sell it, but it needs to be regulated.

Paul Pacheco, 229 Nash Lane in Billings, said there have been a lot of valid points brought up tonight. The concerns are valid because when this was passed, there were no rules or organization. He wants to state a couple of concerns, then someone will come up to state facts, not only from Montana, but other states. There is always a concern with kids getting marijuana, drugs, and alcohol and if it is made available to them in some way, shape or form, they are going to get it. They have been doing it way before this was an issue and it will continue to be an issue with the kids. The intent was that this can relieve pain without all the other side effects that come from pharmaceutical drugs. There should be something in ordinance about how it is distributed. He asked everyone to really listen to the facts and statistics, before passing judgment. If you hate it, you just hate it. Don't vote against it just because you hate it.

Lane Scheveck, 8307 Danford Lane, came to voice his opinion on whether we should allow it or not. He has spent a lot of time looking at what other cities and towns have done. He distributed a handout that he went over. It is broken into three sections. One myth is about crime rates and that there is a correlation between dispensaries, robberies and theft. There have been studies in metropolitan areas and there is no direct correlation. He cited articles in his handout that support this from Colorado Springs, Denver, Los Angeles and San Francisco. The next section is about towns that have allowed dispensaries and what they do to regulate the industry. They mostly adopt the Fort Collins system. Bozeman went to bat at the Montana legislature about how proud they are of their system and it works. In Bozeman and Ennis, everyone involved got together and developed a system that is almost identical to what Laurel is proposing. Laurel has more restrictions and that is a great step in controlling the industry. You can't advertise marijuana; no one wants a pot shop on main street. They looked at state law and then looked at what can be done legally to control this industry. Many Montana cities are doing what Laurel is doing. Cities that have banned it are getting sued. You won't just get sued by dispensaries, but by the caregivers and patients also. There are patients in Laurel who cannot get out to purchase their medication. In the Marijuana Act of 2004, it

says a patient has the right to grow it and use it. If you ban it, you are taking away their rights. He said Great Falls and Helena are getting sued along with several out of state cities. In closing, the purpose of medical marijuana is great but they did not take any regulatory measures. There are three or four bills in the legislature to regulate it and one bill to repeal it. He is a caregiver and sees the benefits. There will be horror stories of kids getting it, but that also stems from parenting. Don't hold that against an industry that does more good than harm.

Zach Unruh, 1208 Eldorado in Billings, is for medical marijuana. The biggest issue he is hearing is it falling into kids' hands. The only way they can obtain it from a dispensary, is if they have a doctor's note and a parent with them. When he moved off the farm in Glendive and came into the 8th grade classroom in Laurel, 90% of the students could tell you where to get it. This just gives those who need it an opportunity to obtain it legally.

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

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

The public hearing was closed.

Mayor Olson announced to the council that they may consider waiving the rule (LMC 2.10.080) to wait until the next regular meeting to vote on the second reading of Ordinance No. O11-01. Mayor Olson said this motion must pass by a unanimous vote, in order to pass and be put on tonight's agenda.

Motion by Council Member Poehls to waive the council rule and to place Ordinance No. O11-01 on tonight's agenda as Item 10, (f) under Scheduled Matters, seconded by Council Member Stamper.

Council Member Poehls explained why he made the motion. The State has put the city in a precarious position. The city of Laurel has a moratorium that runs out and we cannot reestablish the moratorium, because we have run out of options. Even if the state makes a decision, it will not go into effect until October. If we don't do something now, there is a window of opportunity where we will have no control over the situation. That is why he wants it on the agenda tonight.

The question is called for. All council members present voted aye. Motion carried 7—0.

- Ordinance No. O11-02: An ordinance amending Title 5 of the Laurel Municipal Code titled "Business licenses and regulations" to allow licensing of medical marijuana businesses. (First reading 02/01/2011)

Mayor Olson opened the second public hearing for Ordinance O11-02 and read the rules governing the public hearing. This ordinance deals with business licensing and he asked the public to give evidence only on this topic.

The Mayor read Ordinance No. O11-02.

Mayor Olson asked for any proponents.

Jason Smith, 623 Beverly Hill Boulevard in Billings, said he is not going to change any minds but he wants everyone to know he has an open door policy. He applied for and was given a business license, he is legal and that is why he is here today.

Lane Scheveck, 8307 Danford Lane, said he is a citizen of Laurel and pays his taxes. He had a map from City Attorney, Sam Painter, showing where they can be located and he only foresees one, maybe two dispensary shops in Laurel. The council did a really good job on this and one or two are plenty. He doesn't want them on every corner, that's not what the law was made for. It was made out of compassion and it is a legitimate business. A lot of communities bring in lots of revenue from dispensaries. They pay taxes, utilities, employees, and benefits and a business like this, is a benefit to Laurel. He does not understand why we would not allow it.

Mayor Olson asked for any more proponents. There were none.

Mayor Olson asked for any opponents.

Duane Guenther, 412 Birch, said this is a city of Laurel matter and why are all these people from Billings trying to influence our town. It should be limited to the people who live here and pay taxes here. He is still saying, not in our town.

Cindy Sellers, 1106 12th Avenue, asked if there is a standard fee for obtaining a business license for a medical marijuana shop, not a pot shop. It was stated there is a standard fee for licenses.

Jean Kerr, 1128 9th Avenue, has not had a chance to look at the business license ordinance or the map but she did hear information that it would be one thousand feet from playgrounds, etc. A thousand feet is only about two city blocks and when she issues a restraining order, it is for 1500 feet. She would hope that the council revisits the distances in the ordinance.

Mayor Olson asked for any more opponents. There were none.

Mayor Olson asked for any more proponents. There were none.

The public hearing was closed.

Mayor Olson announced to the council that they may consider waiving the rule (LMC 2.10.080) to wait until the next regular meeting to vote on the second reading of Ordinance No. O11-02. Mayor Olson said this motion must pass by a unanimous vote in order to pass and be put on tonight's agenda.

Motion by Council Member Poehls to waive the council rule and to place Ordinance No. O11-02 on tonight's agenda under Item 10, (g) under Scheduled Matters, seconded by Council Member Hart.

Council Member Poehls said he made this motion to cover the city for the lapse of our moratorium.

The question was called for. All council members present voted aye. Motion carried 7—0.

CONSENT ITEMS:

- **Clerk/Treasurer Financial Statement for the month of January 2011.**
- **Approval of Payroll Register for PPE 02/06/11 totaling \$162,853.19.**
- **Receiving the Committee Reports into the Record.**

--Budget/Finance Committee minutes of February 1, 2011 were presented.

--Park Board minutes of February 3, 2011 were presented.

--Council Workshop minutes of February 8, 2011 were presented.

--Cemetery Commission minutes of January 20, 2011 were presented.

--Cemetery Commission minutes of February 7, 2011 were presented.

--Laurel Airport Authority minutes of November 23, 2010 were presented.

--Special Laurel Airport Authority minutes of January 11, 2011.

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 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
- **Resolution No. R11-13: A Resolution approving Amendment No. 3 to the previously adopted Task Order No. 16 of the Agreement for Professional Services dated June 5, 2007 between the City of Laurel and Great West Engineering, Inc., for completion of the preliminary design phase of the Wastewater System Improvement Project.**

Motion by Council Member Poehls to approve Resolution No. R11-13, seconded by Council Member Nelson. There was no public comment or council discussion. A vote was taken on the motion. All council members present voted aye. Motion carried 7-0.

- **Resolution No. R11-14: A Resolution of the City Council authorizing the Mayor to sign an agreement with High Plains Architects to assist the City with an Alternative Project Delivery Contract for the construction of the ambulance addition to the City's Fire, Ambulance and Police (FAP) Building.**

Motion by Council Member Rodgers to approve Resolution No. R11-14, seconded by Council Member Hart. There was no public comment or council discussion. A vote was taken on the motion. All council members present voted aye. Motion carried 7-0.

- **Resolution No. R11-15: Resolution relating to the use of an Alternative Project Delivery Contract for the construction of the ambulance addition to the City's Fire, Ambulance and Police (FAP) Building.**

Motion by Council Member Dickerson to approve Resolution No. R11-15, seconded by Council Member Mace. There was no public comment or council discussion. A vote was taken on the motion. All council members present voted aye. Motion carried 7-0.

- **Resolution No. R11-16: A Resolution approving an agreement between the City of Laurel and American Medical Response ("AMR"), relating to the Provision of Paramedic Rendezvous and Transport Services.**

Motion by Council Member Stamper to approve Resolution No. R11-16, seconded by Council Member Dickerson.

Donna Wagner, 1043 Montana, asked the council to explain the resolution. Mayor Olson said this is a renewal of a contract that we have with AMR for transport of patients, from basic life support to advanced life support services.

The question was called for. All council members present voted aye. Motion carried 7-0.

- **Ordinance No. O11-01: An ordinance of the City Council of the City of Laurel, Montana, amending certain portions of the City's zoning code located at Title 17 in the Laurel Municipal Code relating to medical marijuana businesses within the zoning jurisdiction of the Laurel/Yellowstone City/County Planning Board. Second reading.**

Motion by Council Member Poehls to adopt Ordinance No. O11-01, seconded by Council Member Mace.

Motion by Council Member Poehls to amend Ordinance No. O11-01 by striking out Central Business District, Community Commercial and Highway Commercial for medical marijuana dispensary or dispensary in Table 17.20.010, and inserting an "A" under Light Industrial, seconded by Council Member Mace.

Council Member Poehls explained that the ordinance could allow for a dispensary in our central business district along Main Street. The state left us in a quandary and we really should leave it to them to decide, but there is such a lag time, it could get us in trouble. A gentleman said crime does not increase and it may not be against dispensaries, but the crime rate may increase due to people committing crimes to get the money to buy marijuana.

The second issue, whether growing or dispensing it, is that many of our businesses in the central business district have apartments above them. Regardless if you have one grow light or ten, you have some electrical hazard. You also have the issue that if someone is smoking in the old

buildings, the smoke could rise up through the building into the apartments above. We saw what happened with the Laurel Movie House and how catastrophic it was, imagine if something else caught fire in the city of Laurel. By going to Light Industrial, you mitigate these hazards.

Council Member Hart said a lot of people voted for medical marijuana, stressing the medical. Those who did feel betrayed by the legislature and we are hoping they will remedy their mistake. They left the city in a difficult position with very few tools. The only real tools we have to protect ourselves are through the zoning and licensing. Council Member Poehls' amendment is a very good way to narrow it down. If we have to have it, let's decide where. We do not want to open ourselves up to a lawsuit.

Council Member Mace said he understands why things were said on both sides of the issue. A lot of people voted for something that is vague. When that happens, there are problems with it. This is nothing the council has not already heard, but he is glad the public came and spoke their piece. When you jump to conclusion that we are going to make a lot of money, that is not the case. He just wants to stress that the law is so vague that the council does not have much to work with. In retrospect, what the council is doing tonight makes sense. They can hold it down and keep the lid on as tight as possible.

The question was called for on the motion to amend Ordinance No. O11-01 by striking out Central Business District, Community Commercial and Highway Commercial for medical marijuana dispensary or dispensary in Table 17.20.010, and inserting an "A" under Light Industrial. If the amendment is adopted, medical marijuana dispensary or dispensary will be allowed only in Light Industrial. A roll call vote was taken on the amendment to Ordinance No. O11-01. All council members present voted aye. Motion carried 7—0.

The question is being called for on the motion to pass Ordinance No. O11-01 as amended. A roll call vote was taken. Council members Poehls, Mace, Nelson and Hart vote aye. Council members Dickerson, Stamper and Rodgers voted no. Motion carried 4-3.

- **Ordinance No. O11-02: An ordinance amending Title 5 of the Laurel Municipal Code titled "Business licenses and regulations" to allow licensing of medical marijuana businesses.** Second reading.

Motion by Council Member Hart to adopt Ordinance No. O11-02, seconded by Council Member Poehls.

Robert Stamper, 523 Date Avenue, asked if there is an age limit on purchasing a business license. It was stated that under Section 5.70.060 of the ordinance, a license cannot be held by any person under the age of eighteen (18) years.

A roll call vote was taken on the motion. Council members Poehls, Mace, Nelson, and Hart voted aye. Council members Dickerson, Stamper and Rodgers voted no. Motion carried 4—3.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT): None.

COUNCIL DISCUSSION:

Council Member Poehls thanked the public for coming and for their input. The council makes decisions that they feel are best for the city of Laurel.

Council Member Mace said he is also glad to see the public tonight. It is good to see the tanks coming down at the storage facility by the railroad tracks. The warmer weather has allowed the Public Works Department to breathe a sigh of relief. There was an error in the Park Board Minutes but a correct copy has been redistributed.

Council Member Dickerson said he hopes that everyone in the audience realizes that, as they are all individuals with feelings and expressions, the council is also made up of individuals with the same feelings. We vote as we feel best represent the city. Thanks for being here tonight and voicing your opinions.

Council Member Nelson thanked the public who came out tonight. Even though he voted for these ordinances, he agrees with most of the audience. He feels he is protecting them by voting for established criteria that may better serve them, then by having a lawsuit.

Council Member Rodgers thanked all for coming and for the comments over the past month. Hopefully, our state will attend to this so we don't have to face it in the future. Even though there was testimony about no crime, he knows otherwise, by talking to people in different communities that are associated with police departments. It is a money maker and that is why these people are here. It needs to be controlled a lot better than what is being done now.

Council Member Hart offered to show the audience the map and the areas where it would be allowed, after the meeting.

Mayor Olson said it is like any issue that comes before the council; you have the opportunity to see the form of government that we work under, a democracy. He doesn't know of any other example that is as good as tonight's meeting, that shows how business is conducted. The council serves the community and the community must understand how well they are served by the council members. They work very diligently to make sure your best interests are served.

The Council Retreat will be held on Saturday, February 26th in the council chambers. An additional item will be added to the agenda for a total of eight items. There is still time to put items on the agenda. Coffee and rolls will be served starting at 8:30 a.m. with the presentation starting at 9:00 a.m. A break will be taken for lunch and lunch will be brought in. Hopefully, it will wrap up by 2-3 p.m. All council members present indicated they will be able to attend. The council is a diverse group and it will be interesting to see how the topics flow.

Mayor Olson said an item will be added to the workshop agenda for next Tuesday. There will be discussion on the budget process and how it is going forward.

ADJOURNMENT:

Motion by Council Member Mace to adjourn the council meeting, seconded by Council Member Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All 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 8:15 p.m.

Cathy Gabrian, Deputy Clerk

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 1st day of March, 2011.

Kenneth E. Olson, Jr., Mayor

Attest:

Shirley Ewan, Clerk/Treasurer