

MINUTES OF THE CITY COUNCIL OF LAUREL

August 3, 2010

A regular meeting of the City Council of the City of Laurel, Montana, was held in the Council Chambers and called to order by President Doug Poehls at 6:30 p.m. on August 3, 2010.

COUNCIL MEMBERS PRESENT: Emelie Eaton Doug Poehls
 Kate Hart Mark Mace
 Chuck Rodgers Chuck Dickerson

COUNCIL MEMBERS ABSENT: Alex Wilkins Norm Stamper

OTHER STAFF PRESENT: Bill Sheridan Shirley Ewan
 Sam Painter Brent Peters
 James Caniglia

President Poehls led the Pledge of Allegiance to the American flag.

President Poehls asked the council to observe a moment of silence.

MINUTES:

Motion by Council Member Dickerson to approve the minutes of the regular meeting of July 20, 2010, as presented, seconded by Council Member Rodgers. There was no public comment or council discussion. A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

CORRESPONDENCE:

Montana Department of Revenue: Letter of July 21, 2010, regarding Application for Issuance of a New License.

Randy Swenson, Tender Nest: Letter of June 16, 2010 requesting vacation of 20' alley between Laurmac Subdivision Lot 1 and Ward Subdivision Lot 13.

Bright n' Beautiful: Minutes of July 20, 2010.

Local Emergency Planning Committee: Minutes of July 8, 2010; Agenda of August 12, 2010.

PUBLIC HEARING: None.

CONSENT ITEMS:

- **Claims for the month of July 2010 in the amount of \$432,582.23.**
A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.
- **Approval of Payroll Register for PPE 07/05/2010 totaling \$138,811.85.**
- **Receiving the Committee Reports into the Record.**
 - Budget/Finance Committee minutes of July 20, 2010 were presented.
 - Emergency Services Committee minutes of July 26, 2010 were presented.
 - Council Workshop minutes of July 27, 2010 were presented.
 - Laurel Urban Renewal Agency minutes of June 21, 2010 were presented.
 - Laurel Urban Renewal Agency minutes of July 5, 2010 were presented.

President Poehls 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 Eaton. There was no public comment or council discussion. A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

CEREMONIAL CALENDAR: None.

REPORTS OF BOARDS AND COMMISSIONS:

- Tree Board letter of July 15, 2010.

Council Member Eaton stated that the budget for the next year 2010-2011 was explained to the Tree Board. The members understand how that impacts the Tree Board and would like the council to approve the budget as it was explained to the Tree Board.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT): None.

SCHEDULED MATTERS:

- **Confirmation of Appointments.**

Laurel Fire Department:

Fire Chief Peters introduced Dan Achten, who previously served four years on the Laurel Fire Department and three years on the Park City Fire Department. Jason Shovar, who was unable to attend tonight's meeting, has nearly fourteen years of experience and has come back to the department.

President Poehls appointed Jason Shovar and Dan Achten to the Laurel Fire Department.

Motion by Council Member Eaton to approve the appointments of Jason Shovar and Dan Achten to the Laurel Fire Department, seconded by Council Member Hart. There was no public comment or council discussion. A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

- **Set an additional water rate increase public hearing on September 21, 2010.**

Motion by Council Member Dickerson to set an additional water rate increase public hearing on September 21, 2010, seconded by Council Member Hart.

Brad Molnar, 1423 Frank Road, stated: "It is with some trepidation that I come forward on this. I am a Public Service Commissioner, what we don't do is municipal water rates. However, this issue has garnered a lot of press. It's attracted attention at the state level. The state level is the Montana Consumer Counsel. They have been working with me and various people and so I wanted to do, I don't know, all ___ I read in the papers and what I'd like to do is just throw out some thoughts for your consideration so this doesn't go on and on and there can be resolution found. I don't speak for any one person or any one group. I certainly do not speak for the Montana Public Service Commission. This might seem small, but in your agenda and in the paper you're calling it a public hearing. You've had a public hearing and I believe what you are going to have or are going to attempt to have is a rate hearing, which is very structured by law and it's required by law. It's different than a public hearing in that the Montana Consumer Counsel can be here if they opt to be. So it is different and I think it might not be a matter of semantics, particularly if it winds up being challenged again. One of the things that your attorney, I read about in the paper, is very correct on is you do not need to have cross examination, you don't need interrogatories, you don't need discovery. There's a lot of things you don't need. And I'm here to suggest that perhaps it's best to allow discovery, examination and cross examination to make it as transparent as possible. You are going to have to give information at some point. Why not give it to the Montana Consumer Counsel and because this can be appealed to the District Court level. At the District Court level, the judge can order discovery and interrogatories. And there can be examination and cross examination because it's supposed to be based on a body of evidence and without the discovery, there is no body of evidence so you would have to start fresh. So why not do it before it gets challenged and have an airtight case going in and people say it's not worth us spending \$30,000 to go in and challenge this because the facts are clear. You know, there may already be damages to certain businesses. Certainly the letter from MCC indicates that perhaps they have been unfairly charged. If it goes to

court, it's going to be awarded. Here they can't. Why not have an open and honest discussion in which as is indicated in the two letters from the Montana Consumer Counsel perhaps your revenue requirements are very close to on, if not right on. But perhaps it's in your rate structure that the challenge would come about and you've already got that partial finding, at least it was a suggestion there, so just go forward and say look, we'll answer any questions you have. If anybody wants to be an intervener on top of the Montana Consumer Counsel, you're welcome to be here and then their attorneys can ask questions of the Montana Consumer Counsel and whoever brought forward the testimony and the evidence. I talked to a friend of mine yesterday about this and he said, well I'll get to that in just a minute. Anyway, to actually do it that way I think rather than the dribs and drabs like this is going on getting letters from the state on the same day you have your meeting here, things like that, I think the time has passed and just lay the cards on the table. Another advantage I'm disappointed in what I'm seeing is that there is a certain amount of character assassination going on because people are extremely frustrated with the process that's going on. In a public hearing, that can go on. In a rate hearing, it can't. It's on the evidence. What did you find for rates? What did you find for water flow? What did you find for what's being paid? And that's all that's allowed. It is a clean and simple process, far more so than a public hearing. It probably will require another rate hearing because that's what the water requires. Last but not least, and I'm not throwing stones at anybody. I've gotten into this in my work, and I've been accused of it, and I had to find my way out of it. The mayor could be your hearings officer. The mayor will probably be in the hospital. So it goes to the next in command. It's my understanding the next in command has said he didn't want another rate hearing because he's made up his mind. That raises an automatic challenge at the District Court level for due process. You can't have somebody who said, I don't like the rate increase or something I said that got me in trouble. He can't be the finder of fact. He can't be the one that rules on getting this ability. He can't say, if somebody says, I object, he can't rule sustained or overturned because he's already made up his mind and that makes it tainted. So going back to my friend the judge, there are judges that are retired. There is a pool of them out there, that if a judge is sick or has a conflict of interest, they bring this person in because they're experienced. They are very part-time, like a fill-in teacher. He named two like that that would take this case probably. One to just have the money to come back and visit grandchildren, and the other one because he's here and probably elderly and this would be a piece of cake for him and he would probably take it and it's quite possibly the cheapest, easiest, and cleanest way to do it. Have a totally unbiased hearing officer for a totally unbiased hearing that lays all the facts on the table and hopefully ends what's been going on in the community. So that's all I came to say and with that I beg your indulgence and thank you for your time."

There was no council discussion. A vote was taken on the motion to set an additional water rate increase public hearing on September 21, 2010. All six council members present voted aye. Motion carried 6-0.

- **Set a public hearing on September 7, 2010, for an extension of a temporary moratorium on the opening, operation, and licensing of any establishments that grow, sell, or distribute medical marijuana.**

Motion by Council Member Mace to set a public hearing on September 7, 2010, for an extension of a temporary moratorium on the opening, operation, and licensing of any establishments that grow, sell, or distribute medical marijuana, seconded by Council Member Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

- **Resolution No. R10-87: A resolution of the City Council accepting an Energy Efficiency Community Block Grant from the State of Montana Department of Environmental Quality (DEQ).**

Motion by Council Member Rodgers to approve Resolution No. R10-87, seconded by Council Member Hart. There was no public comment or council discussion. A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

- **Resolution No. R10-88: Notice of intent to vacate a certain alley in the City of Laurel.**

Motion by Council Member Dickerson to approve Resolution No. R10-88, seconded by Council Member Rodgers. There was no public comment or council discussion. A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

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COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT): None.

COUNCIL DISCUSSION:

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

The Cemetery Commission will meet on Monday, August 16th, at 5:30 p.m.

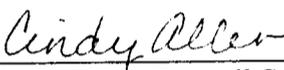
The Park Board will meet on Thursday, August 12th, at 5:30 p.m.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

Motion by Council Member Dickerson to adjourn the council meeting, seconded by Council Member Rodgers. There was no public comment or council discussion. A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

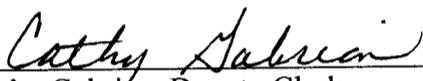
There being no further business to come before the council at this time, the meeting was adjourned at 6:48 p.m.


Cindy Allen, Council Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 17th day of August, 2010.


Kenneth E. Olson, Jr., Mayor

Attest:


Cathy Gabrjan, Deputy Clerk