

MINUTES OF THE CITY COUNCIL OF LAUREL

August 4, 2009

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 August 4, 2009.

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

COUNCIL MEMBERS ABSENT: Norm Stamper

OTHER STAFF PRESENT: Mary Embleton Derek Yeager
 Sam Painter James Caniglia
 Bill Sheridan

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 Dickerson to approve the minutes of the regular meeting of July 21, 2009, 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.

CORRESPONDENCE:

Cable Montana: Service Reports for April – June 2009.

Letter from the Montana Association of Railroad Passengers.

PUBLIC HEARING:

- **Ordinance No. 009-09: Ordinance to amend the official zoning map of the City of Laurel, Montana, to change the zoning designation of a parcel of property located in Yellowstone County from Residential Manufactured Home to Light Industrial Zoning.** (First reading – 07/21/2009)

Mayor Olson asked City Planner James Caniglia to introduce the item to the council.

James stated that the request is to change a parcel of land from Residential Manufactured Homes to Light Industrial. The piece of land is located just off of South 9th Street. The general location is north of South 9th, lying between 9th Street and I-90, between South 8th Avenue and Yellowstone Avenue. The 8.5 acres of land has Residential Manufactured Homes zoning to the south. Across the interstate to the north, there is a small stretch of Light Industrial and South School is located to the north of that. To the west, it is zoned Residential Tracts, and there is Heavy Industrial to the east on land owned by CHS, the applicant. The zone change request was reviewed by the Planning Board, which recommended approval with a 5-2 vote. Planning Board had concerns with traffic and wanted that to be noted in the minutes for the council to be aware of those regards. As no conditions can be placed on a zone change, there is no way the Planning Board could specify conditions for the zone change. Conditions can be specified during a subdivision review, but there is no subdividing or annexation with a zone change.

Mayor Olson asked the applicant to introduce himself and respond to questions from the council.

Pat Kimmet, 2130 Saddleback Drive, stated that he is an employee at the Refinery. He has lived here for over 28 years and this is his home. He supports this zoning change, which he stated is good for CHS, and is also very good for the community. Ken Billingsley will give a more complete



presentation, but he gave a brief overview. CHS owns property along the interstate on the west side of its facility that has been used for parking. The land is approximately 13 acres and is currently zoned Residential Manufactured Homes. CHS would like to have it rezoned Light Industrial, which would allow them to build a very nice facility to house offices, a lab, maintenance shops, and a warehouse. It will result in a significant increase in property taxes. The CHS property immediately to the east is already zoned Heavy Industrial and the property to the north is already zoned Light Industrial. It is their understanding that other property adjacent to CHS property is currently being used in such a manner that it should be zoned Light Industrial for the existing business that is presently located there. The hearing process before the Planning Board was helpful to understand the concerns of the neighbors. Pat stated that Ken would talk in more detail about that.

Pat stated that the first concern was school safety. CHS met with Superintendent Middleton and they heard his concerns and resolved them. CHS originally applied for the rezoning request to be Heavy Industrial, but the Planning Board and James expressed concern that they could build anything there, including a processing unit right next to the interstate. That was never the intention. Subsequently, CHS modified the request to Light Industrial, which is all that is needed for the proposed facility. The Planning Board expressed concern about the increase in traffic west of the Refinery. Unfortunately, many people equate the traffic from the new facility to the traffic when the coker was built. At times there were over 2,000 people, and it was a real inconvenience for the people in that part of town. The proposed facility will house about 120 employees, which is a small fraction of what the neighbors saw during the coker construction. Although it is significantly smaller, CHS decided after the Planning Board meeting to conduct a traffic study to determine if there would be a substantial impact on that part of town. The reality is, whether the request is approved or not approved, because of some requirements at the facility, CHS will have the same amount of traffic going out the west side of the Refinery. They think it is a reasonable request given the property use around them, and Pat asked the council to give it very serious consideration and approve the zone change request.

Ken Billingsley, 4150 Valley Canyon Ranch Road in Molt, is the Project Engineer for this facility at the CHS Refinery. He spoke in favor of the proposal. He stated that, due to an oversight, a separate application covering two adjacent parcels of land has also been submitted to the Planning Board for eventual approval by the council. CHS, like other refineries and operators of petro-chemical facilities, is required by OSHA, the Occupational Safety and Health Administration, to house non-essential personnel (non-operators) suitably distant from operational units. However, to complete their work effectively, the maintenance personnel, warehouse, and lab need to be reasonably close to the operating units to avoid spending too much of the day in transit. CHS has carefully reviewed the potential locations for this facility, and he has identified the subject parcels of land to be the best balance between safety and being able to do their work effectively.

Ken stated that Pat had alluded to some of the concerns raised at the Planning Board meetings, and he spoke to them in more detail. On the issue of safety of school children, they met with Josh Middleton, the Laurel Public School Board Superintendent, to hear his concerns. Through that discussion, it was learned that the timing of employee traffic accessing the proposed facility will be different from when the school children arrive. The morning commute window for CHS employees would be earlier in the morning than the school children would arrive or be delivered at school. The afternoon commute window for the CHS employees was later than the window during which the school children would depart. Mr. Middleton was fully satisfied that increased traffic would not increase the safety risk to the children.

As for increased traffic, it is understood that there would be additional increase in traffic in the general area by having 120 additional employees and truck traffic accessing the warehouse site. A traffic study was done over the last three weeks by Bob Marvin, of Marvin Associates, of Billings. Based on employee data at average current warehouse traffic and electronic traffic counters in the area to measure current traffic levels, it was determined that all the approaches to the intersection of South 8th Avenue and South 9th Street would operate a level of service B or better during the a.m. and p.m. periods. Levels of service go from A to F, with A being very good and free flowing, and F being bumper to bumper. Level B is a very high level, meaning minimum delays of traffic. Based on this traffic study, there would be minimal impact for the numbers of vehicles accessing the facility. The traffic study also concluded that the existing measured distances and posted speeds were fully adequate for site distances and time for stopping coming over the overpass and turning off of and on to South 8th Avenue. Another concern raised by some residents was access to and from 1st Avenue South versus 4th Street. Though CHS would not prevent employees from using this route, just like the city cannot prevent residents living south of the interstate from using this road, they would encourage employees to use Railroad Avenue. The software that Bob Marvin used for the

traffic study utilizes the gravity model, which is a basic traffic modeling tool to determine traffic flow patterns. This software identified that 12 percent of the CHS related traffic would utilize South 4th Street to access the proposed facility. As suggested at the Planning Board review meetings, this route could be made less desirable by the installation of stop signs or by other methods.

Regarding vandalism and theft, a resident reported some damage and loss of personal property during the construction of the new coker facility and was concerned that this behavior might again occur during and/or following construction. Though CHS has no guarantees, they believe that this type of activity would be extremely unlikely to occur in the future for a number of reasons. First, for a period of twelve to fifteen months, the area in question would initially be a supervised construction area, as opposed to an unsupervised and intermittently controlled parking area. Second, the construction companies and their employees would in all likelihood be residents of or have ties to the Laurel/Billings area, unlike the majority of coker construction workers who primarily came from out of state. Third, the employees housed in the proposed facilities would be residents of Laurel, Billings, and surrounding areas and have a vested interest in being good neighbors and good representatives of CHS.

There were other concerns of a lesser nature, which Ken introduced briefly. Regarding risk of liquids flowing off the property, they will not be piping any products into the area of these new facilities. They will just be for storage, so it will just be drums and totes with very small quantities. Any surface liquids, such as rain water, will not be allowed to flow off the property due to grading. Regarding illegal activities, apparently there were some reports of drug related activities on this property in the past, as presumably infrequent use of the property by CHS helped contribute or make possible those activities to a certain extent. The facilities would be fenced and electrified 24/7 and make future activities unlikely. He spoke regarding alternative solutions to the proposal and options that were identified by some of the residents. One option was to have the employees park in the parking lot to the east side of the highway and then bus employees across Highway 212. This would eliminate some of the traffic in the area of the proposed facility, but the ongoing expense of bussing this number of employees multiple times per day would be prohibitively expensive and is therefore not being considered further by CHS. Another option was to have the employees access the facility directly from Highway 212. Contractors to CHS, as well as gasoline, diesel, and asphalt trucks, currently enter and exit the refinery from Highway 212. Due to the speed of the highway traffic, proximity to the interstate overpass, and corresponding obstructions to sight from the overpass supports there is already reasonable risk of accidents with the current volume of traffic. Adding to that volume by the proposed number of vehicles would considerably and unacceptably increase the risk of additional accidents and is therefore not recommended. A final option was to move this facility across the highway to the east side of Highway 212. Access to the Refinery for employees by truck or bicycle would considerably and unacceptably increase the risk of injury or fatality on an already busy stretch of highway. Installing an overpass as was suggested would be extremely expensive and is not considered further.

Ken stated the last point to make on the rezoning application is that, if it were to be denied and not approved, CHS must still proceed with relocation of the 120 employees or be subject to significant financial penalty from OSHA. They have to move them out of the operating units. Because of this, they have no choice but to proceed with development of an alternative location. Their anticipated fallback location would be immediately east of the proposed location, northwest of the coker, just east of Yellowstone Avenue, on CHS property currently zoned for Heavy Industrial. Access to and from this alternative location would still be via South 9th Street and South 8th but would now include the full length of South 9th Street, which would exacerbate the impact from traffic in the area for the residents along South 9th. He does not think that is good for the city or for CHS.

Mayor Olson read the rules governing the public hearing.

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

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

Mayor Olson closed the public hearing.

The second reading of Ordinance No. O09-09 will be on the August 18th council agenda. The ordinance will be on the August 11th council workshop agenda for further discussion.

CONSENT ITEMS:



- **Claims for the month of July 2009 in the amount of \$319,120.57.**
A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.
- **Approval of Payroll Register for PPE 07/26/2009 totaling \$149,009.15.**
- **Receiving the Committee Reports into the Record.**
 - Budget/Finance Committee minutes of July 21, 2009 were presented.
 - Council Workshop minutes of July 28, 2009 were presented.
 - Laurel Urban Renewal Agency minutes of July 13, 2009 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 Eaton. 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. O09-08: 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 Mace to adopt Ordinance No. O09-08, seconded by Council Member Poehls. There was no public comment or council discussion. A roll call vote was taken on the motion. All seven council members present voted aye. Motion carried 7-0.

- **Resolution No. R09-85: A resolution approving agreements between the City of Laurel and Laurel Fire District No. 7, said agreements relating to fire protection.**

Motion by Council Member Rodgers to approve Resolution No. R09-85, seconded by Council Member Wilkins. 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. R09-86: A resolution approving an agreement between the City of Laurel and Yellowstone County, said agreements relating to wildland fire suppression.**

Motion by Council Member Poehls to approve Resolution No. R09-86, seconded by Council Member Mace. 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. R09-87: A resolution of the City Council to authorize the Mayor to sign a Renewable Resource Grant Agreement with the Montana Department of Natural Resources ("DNRC") for Phase 2 of the Water Systems Improvement Project.**

Motion by Council Member Wilkins to approve Resolution No. R09-87, seconded by Council Member Eaton. 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.

- **Authorize the City's Legal Counsel to utilize litigation to enforce the Subdivision Improvement Agreement for Elena Subdivision entered into between the Developer and the City of Laurel.**



Motion by Council Member Eaton to authorize the City's Legal Counsel to utilize litigation to enforce the Subdivision Improvement Agreement for Elena Subdivision entered into between the Developer and the City of Laurel, 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.

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

Council Member Wilkins asked if the members of the Insurance Committee could be contacted and a first meeting could be scheduled.

Mayor Olson stated that staff would review that and get back to the members of the committee to set up a date.

Council Member Eaton mentioned that the 100-year celebration honoring the Laurel Fire Department is scheduled on Saturday, August 22nd, at 5:00 p.m. Council members are encouraged to attend and help serve burgers at the event.

Mayor Olson thanked Council Member Eaton and the Heritage Committee for forming this activity. The committee has contacted several area agencies that would also attend and the 7th Avenue Band will perform.

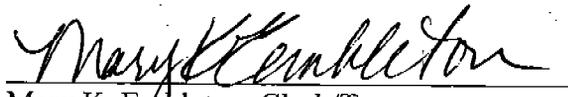
Mayor Olson and Commissioner Kennedy met today to discuss issues regarding the Veterans' Cemetery and combining resources to improve streets that adjoin the city and the county's jurisdiction. There was also discussion involving proposed space considerations for city hall and housing county activities in the building. As the discussions go forward, Mayor Olson will give a definitive report to the council.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

Motion by Council Member Dickerson to adjourn the council meeting, 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.

There being no further business to come before the council at this time, the meeting was adjourned at 7:05 p.m.


Mary K. Embleton, Clerk/Treasurer

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 18th day of August, 2009.


Kenneth E. Olson, Jr. Mayor

Attest:


Mary K. Embleton, Clerk-Treasurer