

MINUTES OF THE CITY COUNCIL OF LAUREL

August 17, 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 Council Vice-President Mark Mace at 6:30 p.m. on August 17, 2010.

COUNCIL MEMBERS PRESENT: Emelie Eaton Mark Mace
 Kate Hart Chuck Dickerson
 Chuck Rodgers Norm Stamper

COUNCIL MEMBERS ABSENT: Alex Wilkins Doug Poehls

OTHER STAFF PRESENT: Bill Sheridan Kurt Markegard
 Christina Kracher Jean Kerr
 Brent Peters

Council Vice-President Mace led the Pledge of Allegiance to the American flag.

Council Vice-President Mace asked the council to observe a moment of silence.

MINUTES:

Motion by Council Member Dickerson to approve the minutes of the regular meeting of August 3, 2010, as presented, seconded by Council Member Stamper. 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:

Laurel Chamber of Commerce: Minutes of July 22, 2010; Agenda of August 12, 2010.

PUBLIC HEARING: None.

CONSENT ITEMS:

- **Clerk/Treasurer Financial Statements for the month of July 2010.**
- **Approval of Payroll Register for PPE 08/08/2010 totaling \$175,813.52.**
- **Receiving the Committee Reports into the Record.**
 - Budget/Finance Committee minutes of August 3, 2010 were presented.
 - Cemetery Commission minutes of July 29, 2010 were presented.
 - Council Workshop minutes of August 10, 2010 were presented.
 - Laurel Urban Renewal Agency minutes of July 19, 2010 were presented.
 - Laurel Public Library Board of Trustees minutes of May 11, 2010 were presented.
 - Laurel Public Library Board of Trustees minutes of June 8, 2010 were presented.
 - Laurel Airport Authority minutes of June 22, 2010 were presented.

Council Vice-President Mace 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:

Council Member Rodgers stated that the benches for the gathering area in the cemetery have been received. A work crew is needed to assemble the benches sometime within the next two or three months.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT): None.

SCHEDULED MATTERS:

- **Confirmation of Appointments:** None.
- **Johnson Controls: Third and Fourth Quarter Report.**

Scott Harvey, Energy Solutions Performance Engineer for Johnson Controls, presented the City of Laurel Performance Contract Results Overview for the third and fourth quarters of the third year. This is Johnson Control's final report, as this ends the three-year contract to report and analyze billing and meter performance. A decision needs to be made within the month regarding continuing to measure the performance of the meters and the other improvement measures Johnson Controls installed in 2007.

Scott distributed copies of the report for the third and fourth quarters of the fiscal year that ended June 30th. The project, which commenced on January 2007 and was completed in June 2007, consisted of about \$900,000 in guaranteed project benefits over 12 years. There are three different categories. The utility cost avoidance pertains to the facility improvement measures that were installed throughout the city in the various buildings. It also included O&M (operations & maintenance) and capital cost avoidance, which had to do with reading the 2,500 water meters throughout the city. The Neptune automated meter reading (AMR) system that was installed was intended to provide more accurate reading and to streamline the reading process by having an employee drive a city vehicle through the city while pulling up all the data through a wireless device. Utility costs avoidance included installation of programmable thermostats throughout the city, addressing an outdated boiler, addressing lighting issues, and building envelope leakage reductions.

Scott did not change any previous recommendations. A lot of HVAC control issues on the far side of the building could be addressed without too much cost involved. The Johnson Controls controller installed with the boiler has enough capacity to house additional inputs and outputs, but there would be labor costs.

Scott reviewed a graph in the report that showed the overall average consumption in the city for the 2-inch meters and smaller. There has been an increase in average consumption for the six months that he had not seen previously. Another graph showed the increase in consumption for the 1½-inch and 2-inch commercial meters. On the next page titled "3rd and 4th Quarter Commercial 1.50 Performance Comparison", the graph pinpointed what accounts or meters are having the increase in average consumption. Another graph provided similar information for the 2-inch meters.

Council Member Dickerson asked regarding a statement on the front page of the "Water Consumption Reporting and Billings Analysis". It stated that "the Neptune automated meter reading system (AMR) has had somewhat poor performance lately due to mechanical issues within some of the meters. This has caused some meters to deliver questionable data. Further inquiry will be made during my site visit, August 16, 2010." Council Member Dickerson asked Scott what he found.

Scott stated that he has not formalized any of his findings yet, he is still in conversation with the public works director, and he is still doing some research on it. Scott will talk to the utility folks with Johnson Controls that specialize in this kind of issue. He will discuss the findings with Kurt to determine what is appropriate as far as reporting back to the city council. He wanted the statement in the document because he did not want to assume that all the data was accurate to this point because they know there is an issue. As part of the contract, Johnson Controls was to measure and do an annual inspection of the other facility improvement measures, such as the HVAC and lighting. Scott performed that inspection yesterday during a walkthrough of the buildings. His report will be sent via FedEx next week.

- **Ordinance No. O10-03: An ordinance amending two sections of the Laurel Municipal Code titled "Bonfire Prohibited" and "Smoking in hotel beds prohibited" located at Chapter 8 of the Laurel Municipal Code. First reading.**

Motion by Council Member Rodgers to adopt Ordinance No. O10-03, seconded by Council Member Hart.

Susan Huntoon, 501 Cottonwood, asked if this was about the fire pits that Gary brought up.

Council Vice-President Mace stated that it was.

Susan stated that Gary was asking that it be made officially legal for people to have fire pits. She is all for that and wanted to put her vote for aye.

Council Vice-President Mace stated that the fire pits were not available for sale at the time a lot of these ordinances were adopted, so this is an update.

There was no council discussion. A roll call vote was taken on the motion to adopt Ordinance No. O10-03. All six council members present voted aye. Motion carried 6-0.

The public hearing of Ordinance No. O10-03 will be on the council agenda of September 7, 2010.

- **Resolution No. R10-89: A resolution of the City Council to vacate an alley located between Laurmac Subdivision Lot 1 and Ward Subdivision Lot 13 located within the City of Laurel.**

Motion by Council Member Eaton to approve Resolution No. R10-89, 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. R10-90: A resolution authorizing the Mayor to execute an Employment Contract for a Temporary Clerk/Treasurer between the City of Laurel and Shirley Ewan.**

Motion by Council Member Dickerson to approve Resolution No. R10-90, seconded by Council Member Rodgers. There was no public comment.

Council Member Eaton stated that she would vote no on this simply because this agreement has already been in effect for four months, and she does not believe the mayor did a very good job of informing or updating the council on it.

A vote was taken on the motion. Council Members Mace, Dickerson, Stamper, Rodgers, and Hart voted aye. Council Member Eaton voted nay. Motion carried 5-1.

- **Resolution No. R10-91: A resolution to approve a non-exclusive Franchise Agreement between the City of Laurel and Bresnan Communications, LLC, for installation, construction, reconstruction, operation, and maintenance of a cable communications system within the City of Laurel, Montana.**

Motion by Council Member Stamper to approve Resolution No. R10-91, seconded by Council Member Dickerson.

Susan Huntoon, 501 Cottonwood, stated that she was told to be at the Budget meeting to find out what percentage the customer fee was going to be, but she missed the meeting. She stated that Bresnan said they would like it to be zero. She asked what the city decided to charge.

Council Vice-President Mace stated that should be addressed to the chairman of the Budget/Finance Committee.

Council Member Hart stated that it has not come up yet.

Council Member Dickerson stated that Council Member Hart was not at the last meeting to know what was discussed. He understands that the question is whether or not the city is going to charge

the 0 to 5 percent charge when Bresnan Communications comes into town. This was not discussed or on the Budget/Finance Committee's agenda because it has not been approved by the council yet and is on tonight's agenda.

Vice-President Mace read from section 7.1 of the contract with Bresnan Communications: "In consideration of the granting and exercise of a franchise to use the streets, as defined in Section 5.52.020 of the Laurel Municipal Code, for the operation of a cable communications system, beginning December 1, 2010, Bresnan shall pay to the City during the life of the Agreement, a franchise fee, as authorized by Section 622 of the Federal Cable Franchising Policy and Communications Act of 1984 and addressed by Section 5.52.080 of the City Code of five percent (5%) of Bresnan's total gross revenues from the operation of the cable system to provide cable services, including but not limited to, gross advertising revenues."

Susan Huntoon asked that the council find out what it wants to do with the 5 percent and why the council chose to go with the highest amount when they did not have to charge anything and Bresnan said they would like to see it at zero.

Council Vice-President Mace stated that the city has a franchise fee with other utilities.

Susan Huntoon said it does not mean it has to be, and they have no say in that and should have a say in this.

Council Vice-President Mace explained that the city would have to repair and pay for a certain amount of work done in the right-of-ways.

Larry Tanglen, *Laurel Outlook*, asked if a franchise fee is assessed to customers under the current agreement with Cable Montana. If so, he asked the amount of the fee. He thought that companies paid a franchise fee to the city and was not aware that it was assessed to the customers.

Council Vice-President Mace stated that the section he read states that 5 percent of Bresnan's total revenues from the operation of the cable system to provide cable services would be paid to the city, which indicates that Bresnan pays the city.

Susan Huntoon stated that Bresnan explained to her that the 5 percent would be on each customer's bill.

Doris Hill, 612 7th Avenue, currently pays over \$135 per month for all the cable services available so she could communicate with her son in Iraq, Afghanistan or Korea. She stated that adding 5 percent to \$135 gets into a ferocious amount of money, so she is not sure that this is such a great idea.

Council Member Stamper stated that the council workshop minutes state: "Under the franchise agreement, the city can charge up to a 5 percent franchise fee that Bresnan would apply to a consumer's bill and then remit to the city. Doug stated that a resolution would be available to the council by Friday. Susan Huntoon, 501 Cottonwood, asked what the council would do with the money if a zero to 5 percent customer fee was charged. Doug stated that questions should be directed to the Budget/Finance Committee." Council Member Stamper stated that he was not aware that this 5 percent was going to be in the contract and thought it would be referred to the Budget/Finance Committee first.

Council Member Dickerson stated that section 7.1 states that "in consideration of the granting and exercise of a franchise to use the streets, as defined . . . a franchise fee, as authorized by Section 622 of the Federal Cable Franchising Policy and Communications Act . . . and addressed by Section 5.52.080 of the City Code of five percent (5%) of Bresnan's total gross revenues from the operation of the cable system to provide cable services, including but not limited to, gross advertising revenues." He stated that the fee would be paid to the city, as per the contract. But that does not address what is being discussed regarding the city charging the consumers once Bresnan goes in. He stated that the council is considering a resolution for the contract tonight, but nothing has been done as far as assessing a percent to the consumers, so that is completely irrelevant to this resolution.

Council Member Stamper clarified that the 5 percent is charged to Bresnan, and Bresnan can add the 5 percent to the consumer's bill to cover the increase. The city will not charge the consumer. He understands the reasoning for a fee for maintenance of right-of-ways and is not necessarily against that. But he thinks the Budget/Finance Committee should review the issue further.



Council Member Dickerson suggested that the resolution be tabled for the Budget/Finance Committee's review on September 7th.

Motion by Council Member Dickerson to postpone council action on Resolution No. R10-91 to September 7, 2010, after the Budget/Finance Committee discusses the issue at its meeting on September 7th, seconded by Council Member Hart. There was no public comment.

Council Member Eaton requested that information regarding Cable Montana's current charge and Bresnan's proposed rates for cable services be available at the August 31st council workshop.

A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

- **Resolution No. R10-92: A resolution of the City Council approving the request and recommendation by the Laurel Urban Renewal Agency to utilize a portion of the City's tax increment funds to contribute towards the completion of the Town Square Mural Project located within the Tax Increment District.**

Motion by Council Member Eaton to approve Resolution No. R10-92, seconded by Council Member Hart.

Shirley McDermott, 508 Roundhouse Drive, stated that she was available to answer any questions.

Council Member Dickerson stated that when Shirley and James Caniglia addressed the council last week, he thought that the majority of businesses were behind donating \$4,000 of tax increment funding to the mural project.

Shirley was not sure if she could give a number, and stated that representatives from Laurel Alive and the various organizations attend the LURA meetings. It is her understanding that there is a lot of support.

Council Member Dickerson had the opportunity to talk to local businesses in the past week and found that there are mixed feelings. A lot of businesses are behind Laurel Alive 100 percent, but some businesses are not aware of what the tax increment funding can do and have not been approached by LURA. He would like a survey done of the businesses that the tax increment funding represents. Council Member Dickerson is behind Laurel Alive, which is a separate entity, and there are businesses involved in Laurel Alive that may be in the tax increment funding district, as well as outside. He cannot vote for this without actually knowing how the business owners in the tax increment funding district feel about it. If a survey was done and 70 percent are for it and 30 percent against it, the majority rules.

Shirley McDermott stated that letters were sent to all the business owners when LURA was first organized, and LURA did survey the individuals that were available. Surveys have been done at Rock the Block events. She asked if he wanted LURA to have at least a 50 percent approval rate on all projects or just these projects.

Council Member Dickerson stated no, this is going beyond. The group was formed to take care of the TIFD money. All LURA projects do not have a separate entity asking for money that is not involved with the tax increment funding district. He stated that Laurel Alive is a separate entity, not a business within the tax increment funding.

Shirley stated that Laurel Alive is made up of the business people.

Council Member Dickerson agreed, but stated that they are not just businesses that are in the tax increment funding district.

Shirley agreed.

Council Member Dickerson stated that Laurel Alive is made up of business owners such as ACE Hardware, Steve Solberg, Laurel Ford, and so forth.

Shirley stated that those businesses are all in the TIF District.

Council Member Dickerson stated that a survey was done at the Town Square so everybody responded to it. He does not want LURA to feel that it has to come before the council on everything

that is funded by them if it has to do with the businesses in the tax increment funding district. He stated that this primarily does not.

Shirley stated that about 70 to 80 percent of the membership of Laurel Alive is in the tax increment district. Dean Rankin from ACE Hardware is a voting member on LURA.

Council Member Dickerson stated that it is the 20 or 30 percent that he talked to that did not know anything about it or were not comfortable with it.

Shirley stated that LURA is not sure how to get everyone the information. LURA can try and has tried in the past, but they cannot get the information to everyone. She stated that the new football field is a good example, as information was presented at public hearings, but people did not know the information until after it was passed. LURA meets twice a month and the public is welcome to attend.

Council Member Dickerson asked how many businesses are in the tax increment funding district.

Shirley stated that there are about 72 businesses, and many were contacted and personally interviewed. LURA received a normal 20 percent response from the survey it did.

Council Member Hart stated that LURA has worked extremely hard on the issues, has tried to contact the business owners, and has gone beyond what was needed. When LURA tries to make decisions and move forward, some business owners come forward and say that no one talked to them. The council also does not get participation until it tries to make a decision, and then people complain about it. Council Member Hart stated that LURA's request for funds fits with what the tax increment financing is supposed to do to benefit the downtown area. LURA was set up to make recommendations to the council, and the council makes the decisions on the funding. She does not think there would ever be 100 percent approval for anything the TIFD does, and they cannot possibly ask every business owner on every issue. They would not even get 50 percent response, let alone 50 percent support. Council Member Hart stated that the council needs to make a decision and putting it off would not be beneficial to the downtown area.

Council Member Eaton stated that she would not support this because she had requested to know whether or not there was enough financial support. Last week's minutes stated that Daniel Klein said they were getting close with fundraising and it was moving very well. Then Greg Nelson gave a history of how this started with a very low budget and now has ballooned to a \$40,000 total project. Council Member Eaton stated that she got no assurance that the TIFD money would not be tapped again for this. She does not appreciate the lack of planning or the lack of financial planning before the city was tapped to spend TIFD money on it, so she will not support it.

There was a brief interchange regarding making the motion and then speaking against the issue.

Council Member Rodgers stated that his concerns about this issue caused him to talk to some people. Out of six people, five said they were informed about the project. Sam wrote a memo that states the money can be used in this area for blight and beautification of the downtown area. The council needs to control the funds. He stated that LURA is working hard to improve the business district and the town so people think it is a nice place to visit or live. After doing some checking, Council Member Rodgers is for this.

Council Member Dickerson stated that he did not want to come across as being totally against this. As Council Member Hart specified, everyone will not respond to the letters, but it was hard to think about the possibility that there might not be as many people for it. Not everyone he talked to was against it, but the negative feedback gave him reason to feel uncomfortable with it. It is a good project, and he hopes there will be more funding mechanisms to contribute to it. He wants to see it go forward, but he would like the business people to respond and be involved.

Dirk Frickel, 203 East Main, thanked Council Members Hart and Rodgers for their recognition of the efforts of LURA and Laurel Alive. He addressed the amount of negative feedback and the people that are not aware of what LURA does and how the money is spent. He stated that Laurel Alive is made up of business people in the TIF District, and Laurel Alive has not been quiet about the good things the organization does. Most of the negative feedback is from people that are not involved with Laurel Alive and must not want to beautify the city with the mural project, the caboose project and future projects. LURA's biggest project will be the façade improvement program, which will address other needs in the downtown area. He stated that the \$4,000 requested

by Laurel Alive is actually .025 percent of the amount of money that the TIFD has in the bank. Dirk stated that attempts have been made to educate people in Laurel about LURA. Some meetings that should have taken ten to fifteen minutes ended up being two hours because there is a lot of concern.

A vote was taken on the motion to approve Resolution No. R10-92. Council Members Mace, Dickerson, Stamper, Rodgers and Hart voted aye. Council Member Eaton voted nay. Motion carried 5-1.

- **Resolution No. R10-93: A resolution of the City Council approving the request and recommendation by the Laurel Urban Renewal Agency to utilize a portion of the City's tax increment funds to pay for costs of survey and title work for the preparation of the application for Laurel's Historic District that is located within the Tax Increment District.**

Motion by Council Member Rodgers to approve Resolution No. R10-93, seconded by Council Member Dickerson.

There was no public comment.

Council Member Eaton stated she would vote against this because she did not receive satisfactory response when she asked City Planner James Caniglia regarding how he planned to pay for the entirety of the match.

A vote was taken on the motion to approve Resolution No. R10-93. Council Members Mace, Dickerson, Stamper, Rodgers and Hart voted aye. Council Member Eaton voted nay. Motion carried 5-1.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT):

Susan Huntoon, 501 Cottonwood, stated that Billings tried to change the animal regulations to allow domestic chickens in the City of Billings. She would like Laurel to look into changing the code.

Council Vice-President Mace stated that the issue would be on the next workshop agenda.

Linda Frickel, 1737 Groshelle Boulevard, is the co-chairman of Laurel Alive, and she spoke regarding the caboose project on the southeast side of the underpass. People have asked her why the caboose was painted brown. She explained that the caboose is not brown, but it was painted to the old original Northern Pacific red. The "Welcome to Laurel" sign was put on the caboose this week, and the landscaping is being done now. The caboose was painted the original Northern Pacific red because Laurel was established because of the railroad. The caboose will eventually be lit at night, which is a requirement from the Montana Department of Transportation. Since MDT does not allow advertising, the Northern Pacific Railroad emblem would not be allowed on the caboose. The words "Est. 1908" will be painted at the very top in between the windows of the caboose. Information regarding the project will eventually be published in the *Laurel Outlook* and possibly in the city's newsletter.

Barbara Farnes, 510 Date Avenue, stated that the Church of Christ has opened on 5th and Alder. She asked who to contact for two handicapped signs for the building.

Council Vice-President Mace provided the contact information for the city's public works director.

COUNCIL DISCUSSION:

Council Member Dickerson asked for discussion at the next council workshop of the possibility of a no left turn sign onto Railroad coming south from under the underpass.

Council Member Rodgers stated that South First Avenue is a State road.

Council Member Stamper mentioned that the Park Board would meet on Thursday, August 19th, at 5:30 p.m. in the council chambers.

Council Member Eaton mentioned that Chuck Dickerson and Mark Mace volunteered to flip burgers and hot dogs at the Heritage Committee picnic Friday, August 20th. Any other council members are welcome to participate.

Council Vice-President asked who planned to attend the Montana League of Cities and Towns Conference in Butte in October. Council Member Dickerson plans to attend.

Council Vice-President talked to Mayor Olson today, and he is trying to follow the doctor's orders this time.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

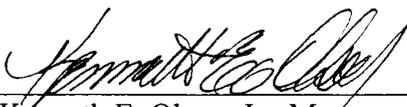
Motion by Council Member Hart to adjourn the council meeting, seconded by Council Member Eaton. There was no public comment or council discussion. A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

There being no further business to come before the council at this time, the meeting was adjourned at 7:45 p.m.



Cindy Allen, Council Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 7th day of August, 2010.



Kenneth E. Olson, Jr., Mayor

Attest:



Cathy Gabrian, Deputy Clerk