

# MINUTES OF THE CITY COUNCIL OF LAUREL

December 16, 2003

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 Bud Johnson at 6:30 p.m. on December 16, 2003.

COUNCIL MEMBERS PRESENT:            Lauren Van Roekel    Doug Poehls  
   Ken Olson                Mark Mace  
   Gay Easton             Daniel Dart  
   Dan Mears              John Oakes

COUNCIL MEMBERS ABSENT:            None

Mayor Johnson asked the council to observe a moment of silence.

Mayor Johnson led the Pledge of Allegiance to the American flag.

## MINUTES:

Motion by Alderman Dart to approve the minutes of the regular meeting of December 2, 2003, as presented, seconded by Alderman Oakes. Motion carried 8-0.

## CORRESPONDENCE:

Air Pollution Control: Agenda of December 9, 2003; Minutes of August 26, 2003; Minutes of October 21, 2003; Minutes of November 11, 2003.

Montana Department of Environmental Quality: Letter of November 26, 2003 regarding Permit Modifications for the CHS Laurel Refinery.

Montana Department of Transportation: Letter of December 5, 2003 regarding removing "No Compression Brake" signs.

## CONSENT ITEMS:

- **Clerk/Treasurer Financial Statements for the month of November 2003.**
- **Approval of Payroll Register for PPE 12/07/03 totaling \$138,167.53.**
- **Receiving the Committee Reports into the Record.**
  - Budget/Finance Committee minutes of November 17, 2003 were presented.
  - Council Workshop minutes of December 9, 2003 were presented.
- **Resolutions.**

**Resolution No. R03-120: A resolution authorizing the Mayor to purchase the Montana Rail Link (MRL) lease from Dean Rankin of ACE Hardware.**

**Resolution No. R03-121: A resolution authorizing the Mayor to sign an agreement with Montana State University, Bozeman, to hire an intern.**

**Resolution No. R03-122: A resolution authorizing the Mayor to sign a Legal Services Contract with Elk River Law Office, LLC.**

**Resolution No. R03-123: Resolution accepting an agreement with Beartooth RC&D Economic Development District.**

**Resolution No. R03-124: Resolution accepting a grant from the Montana Department of Transportation for monies to be spent on the Selective Traffic Enforcement Program (STEP) and authorizing the Mayor to sign said grant.**

The mayor asked if there was any separation of consent items.

Alderman Oakes separated Resolution No. R03-120 from the consent items.

Alderman Mears separated Resolution No. R03-122 from the consent items.

Motion by Alderman Olson to approve the consent items as presented, seconded by Alderman Van Roekel. Motion carried 8-0.

**CEREMONIAL CALENDAR:** None.

**REPORTS OF BOARDS AND COMMISSIONS:** None.

**COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT):** None.

**SCHEDULED MATTERS:**

- **Confirmation of Appointments.**

Current Board/Committee vacancies

Board of Appeals: three positions – two-year terms to begin immediately

Board of Adjustments – two positions to fill terms expiring 06/30/04 and 06/30/05

Big Sky Economic Development Nominating/Interviewing Committee:

Mayor Johnson appointed Gay Easton to the Big Sky Economic Development Nominating/Interviewing Committee for a one-year term ending December 7, 2004.

Motion by Alderman Van Roekel to approve the appointment of Gay Easton to the Big Sky Economic Development Nominating/Interviewing Committee for a one-year term ending December 7, 2004, seconded by Alderman Dart. Motion carried 8-0.

- **Ordinance No. O03-05: Ordinance amending Chapter 8.12 of the Laurel Municipal Code relating to nuisances.** Second reading.

Motion by Alderman Mace to adopt Ordinance No. O03-05, seconded by Alderman Mears. A roll call vote was taken on the motion. All eight aldermen present voted aye. Motion carried 8-0.

- **Motion to fill vacancy in Mayor position.**

Mayor Johnson read the following letter of resignation:

Laurel City Council Members:

It is a difficult decision to notify you of my resignation effective December 21<sup>st</sup>. The choice between serving the community as the elected mayor or furthering my professional situation promoted many thoughts, most of them reflecting the enjoyment I have had endeavoring to meet the challenges presented by city hall and the needs of the community.

My choice is to pursue my professional opportunities.

One important aspect that might interest the council and community is the need for a full-time person within the organizational structure of city hall to coordinate the activities of the department heads and council. This person might have a background in finance, human resources, or safety. The need for this person becomes very apparent when the mayor serves as a part-time CEO and is unable to oversee the day-to-day operations. Many of the needs of the City of Laurel need professional abilities or the coordination of professional abilities. The council could consider many possibilities in assessing this situation.

My greatest regret in resigning is that I will no longer be involved regularly with the wonderful people at city hall. The department heads and staff at city hall, as well as all city employees, do a great job.

Alderman Easton stated that the council recognized the vacancy created by the mayor's resignation. The council discussed the vacancy at a recent council workshop, and it seemed to be the consensus of the councilmen that were present that the vacancy should be filled with a council member.

Motion by Alderman Easton to nominate and appoint Alderman Ken Olson as the Mayor of the City of Laurel for the vacant term effective December 22, 2003 and ending January 3, 2006, seconded by Alderman Mears. Motion carried 8-0.

Mayor Johnson congratulated Alderman Olson.

Alderman Olson thanked the council for their vote of confidence and stated his willingness to dedicate the necessary time and effort. He hopes that he is able to fill the void that will be left by Mayor Johnson and that the council can strive to meet the challenges ahead. Alderman Olson again thanked the council for the vote of confidence.

**ITEMS REMOVED FROM THE CONSENT AGENDA:**

- **Resolution No. R03-120: A resolution authorizing the Mayor to purchase the Montana Rail Link (MRL) lease from Dean Rankin of ACE Hardware.**

Motion by Alderman Oakes to approve Resolution No. R03-120, seconded by Alderman Olson.

Alderman Oakes does not want anybody to think that he does not want the elevator removed. Every time he looks at it, it makes him want to tip it over.

Alderman Oakes said that the first line in the resolution states that ACE Hardware is relocating. He cannot figure out what the intent of that is on the resolution. He does not see any relevance in the next line, which says, "Whereas the City of Laurel will at some point need the lease on the corner of Main and 1<sup>st</sup> Street to improve the underpass."

An item in the workshop minutes says that improvements must be removed if the lease is given back to MRL. The minutes also say that the lease would be an annual lease, and annual leases can be terminated in thirty days. If the lease is terminated, then all the improvements on that property have to be removed in that thirty-day period or else the railroad can remove it and charge the leaseholder. Alderman Oakes stated that this resolution, as far as he can see, is mostly blue sky. He does not see why we should have to buy that lease. The city could just condemn that property and the building, and then it would have to be decided who would remove it. As far as he can see, it would have to be up to the city, the leaseholder, and MRL. He does not see why the city should have to assume that. It is a liability. There has been dust in the elevator since day one, and that is a hazard. He does not think anybody has inspected the property to see if there is any contamination. He knows they took a tank out of one building that fell in over there. We are leaving ourselves open to a lot of unanswered questions on this proposed lease. Alderman Oakes is not satisfied with it and thinks that we are sticking our neck out a long ways.

Alderman Poehls thinks that we need to move forward on this. The problem is that if we do not do it now, we probably will not be able to do it. If he was in Dean's position and could not sell the lease, he would just continue paying the \$250 a year lease and would not spend the \$80,000 to remove the elevator. If MRL took away the lease, he would just walk away from it. The city has an urban design plan that encompasses the streetscape on Main Street and part of the plan includes the removal of the elevator. He realizes that we have to start somewhere and thinks this is the place to start, even though there will be hurdles to address. From what Larry told the council at the workshop, Alderman Poehls thinks the monies can be handled through the HOME Grant Program. Larry has not informed the council about that issue yet. Alderman Poehls thinks that we need to move forward on it because we need the access to the underpass to work something out with MRL to address the corner. He again stated that we needed to start here.

Alderman Dart has given this quite a bit of thought. He is not adamantly opposed to this, but it seems like many things are done in lieu of what the council thinks the voters would want done. He is a little more conservative minded because there are a lot of unknowns. That makes him question what is going on. He spoke regarding the HOME Grant money. He questioned whether it is CDBG money or HOME Grant money. He stated that we do not really know where these dollars would come from. The council is being asked to go forward with something for which the funding is uncertain and questioned if the money would come out of the general fund as a contingency.

Regarding the demolition on the property, it was expressed that perhaps one or two different entities may be interested in that demolition. However, we do not have anything in writing. He questioned if the city would get in a position of liability. Alderman Dart is hesitant in terms of the funding mechanism. He stated that we are in a position where we really do not know the facts, and it does not necessarily represent responsible government when we go into something blind with questions regarding the issue. He questioned why there is a rush to pass this resolution. He also stated that this is not a good location for any other business because of the traffic flow, and he cannot really see anyone else really clamoring to get in there. Alderman Dart asked for the council's indulgence to look at this a bit longer so everyone could feel better about this decision. He recognizes the opportunity, but he does not think the council has enough information at this time to commit to it.

Alderman Mears stated that he did not think Dean Rankin was in a hurry. From what he understands, Dean wants it done by the time his new building is completed, which should allow time for further review.

Alderman Oakes stated that obtaining this lease to round off that corner is a poor reason. Installing the stoplights will do more good to the intersection than anything else. Alderman Oakes thinks that rounding off that corner would increase the accident risk.

Alderman Easton stated that the corner has been in contention as long as he can remember. When driving from the west, it is difficult to try to turn that corner with a truck or pickup with a horse trailer. There are scars on that underpass and it is difficult to get around that corner. Alderman Easton thinks that \$15,000 is pretty cheap as far as the liability that we can get away from by acquiring that corner. The HOME Grant has been public knowledge for four years, and it is money that has come back from the loans made through this grant. For some reason, people have had to sell their property and then the money comes back to the city. This is money that cannot be given back to the bond people, so it is sitting there and can be used for demolition. He understands that there is about \$30,000 in the fund. It seems that the money in the fund could be used for the purpose of purchasing the property, and Larry is checking on this and is supposed to get an answer back. Alderman Easton agrees with Alderman Poehls that they would hate to lose the opportunity because there are people out there that would like to purchase the property just for the use of that corner. He thinks there are people that would tear the elevator down and the city would not have to go to the expense. Alderman Easton believes that this is the right direction and would hate to lose it.

Alderman Mace said that the council needed to step back and realize what is being discussed. He stated that this resolution merely gives the mayor, in this case probably the new mayor, the right to buy this property. It does not mean we are going to buy it right away. No one out there knows that anybody owns it that wants to do anything with the turn lane and that is something we are going to look into. That is what the public works director will look into with the State of Montana and Montana Rail Link. It seems to him that there is no cart before the horse because there is no horse or cart right now. What we are trying to do as a city entity is to talk about doing something with that corner, which is an eyesore in the center of our town and the focal point where everybody comes into our town. He questioned where it would start if it were not started here. We talk about cleaning up the city and this is an opportunity for less than the cost of a brand new pickup. And we are going to stop everything. We are worried about tanks, but we do not know that there are any tanks over there. If there are, we will deal with it. A local businessman recently spent thousands of dollars taking out tanks two months ago. He did not stop and say he did not know if he wanted to do it. There are things that have to be done and he thinks we need to step back and look at the issue. The city has a park in one side of the property, and it looks nice. The Chamber building looks nice, but he thinks the other side looks terrible. Now we have a chance to do something about it. Alderman Mace stated that it is great to have somebody checking and questioning, but he thinks this is too good of an opportunity to stop this resolution simply because this resolution starts everything tonight. It starts us being able to look at it and being able to fix it. Several people filled out the assessment questionnaire and questioned why something is not done with that corner. The corner is a hazard, and he thinks this is the only way it can be fixed. He wants the city to have the option and stated that we would not have the opportunity if we do not do this tonight.

Alderman Olson thought of the council's charge when this issue came up. The issue of public health and safety is discussed when we go to the different seminars. Issues need to be addressed when they can be put into the category of public health and safety. Accidents happen at this intersection because the corner has more than a ninety-degree turn. He agrees with the aldermen that say the city should take advantage of it now for public health and safety issues. This is one of those issues that addresses the main concern to promote public health and safety, and he certainly supports this resolution.

Alderman Van Roekel stated that he could agree with all that has been said. He appreciated Alderman Mace's comments that the mayor can sign this and not necessarily put it in full effect until the council is 100 percent clear on Larry having the demolition fellow lined up without a doubt to demolish the building as he presented to the workshop last week. He stated that he thinks Alderman Dart is saying that he does not want to have the taxpayers stuck with the \$80,000 estimate to remove the elevator. Regarding the opportunity to take care of the corner, he agrees with the comments that it needs to be done. It is an uncomfortable corner, and he cannot imagine turning the corner with an RV. He thinks that it is critical to be reasonable and cautious so the city is not stuck with a financial burden beyond our means to take the building down. He stated that it is a nuisance.

Alderman Dart stated that he certainly sees the relevance in this and the opportunity for the city. This is our gateway and our main thoroughfare off the interstate. He thinks that, with a new mayor and a somewhat refreshed look to the administration, we should try to limit this type of situation because this is a very liberal situation where we are shooting from the hip. We have a lot of questions, and he does not think you represent the people to the best of your ability if you do not get out farther in front. These issues come up, and because of where we are and what economics dictate in our budget, we can be none too careful at this point. He can see the good in it, but he also sees the other side of it that gives a more conservative approach. He could see that the resolution would pass, but he hopes that the council will be more cautious and get the full details for future issues. There is some gray area regarding how the final results of the issue will develop.

Alderman Easton stated that the highway department would be installing a new stoplight at the intersection. The stoplight will be in the same location because they do not have the right of way to move it back. In order to make a good approach at this corner, the city would have to have the property to even talk about it. This is why he thinks that the resolution is not saying we go out and spend this money tomorrow for that. We have to have our ducks in a row, but if we don't own the property, we cannot do anything. If the highway department installs the \$250,000 or \$300,000 stoplight, they will not come back and correct it. We need to have this resolution in place to have the ownership in order to talk or whatever we want to do to develop it.

Alderman Oakes commented that the railroad runs right down through the middle of our community and there is railroad property on both sides. Regarding the asphalt lease, the tops are being blown off the tanks and the lien holder is a bank back east. They are having a hard time getting that cleaned up, and he does not even know if they are working on it. None of the properties on the north side of the street going east are very sharp. The Chamber of Commerce building looks good, but when driving down Main Street, there are garbage cans sitting on the curb. Alderman Oakes has tried for a long time to get rid of them as part of the beautification program. He stated that nothing has been done in this town for beautification. He stated that the elevator is a humongous project. It is not going to come down easily, and the people who are salvaging it might be working on it for four or five years or longer. They might not even work on it. Alderman Oakes stated that this is all blue sky and there is nothing concrete about it. As he stated in a recent memo, nothing is ever done completely. He would like to see something concrete for this. He would like to see both elevators demolished. The railroad properties are not deep enough to locate much of a business there and it is a bad location. Everything is bad about it, and this whole town is a bad spot. But if you work at it you can improve it. He does not think we are trying very hard to improve it. There are big trees growing in the streets west of here. There are manholes that are below the surface of the ground or blacktop. It is very confusing that we can never seem to get our act together like we should.

Alderman Dart stated that Alderman Oakes hit on something. He does not have a map to show how much property this resolution encompasses. It seems to him that we do a lot of taking things on word value and going for it. It is better when there is some substance to a resolution like this so the council would know the exact details regarding the issue. He does not think anybody could know the exact logistics of this issue. He hopes that things can be done differently in the future so the council could understand the issue clearly.

A vote was taken on the motion. Aldermen Mears and Alderman Oakes voted nay. Motion carried 6-2.

- **Resolution No. R03-122: A resolution authorizing the Mayor to sign a Legal Services Contract with Elk River Law Office, P.L.L.P.**

Motion by Alderman Mears to approve Resolution No. R03-122, seconded by Alderman Dart.

Alderman Mears stated that he removed the item because the second paragraph in the agreement states that the Mayor is the Client. He said that there is no mention of the council and he thinks the council should be part of the Client.

After further review and explanation, it was realized that Alderman Mears had misread the contract. The contract stated that the agreement was made and entered into by and between the City of Laurel and Elk River Law Office and that the mayor would be the primary contact for the Attorneys.

A vote was taken on the motion. Motion carried 8-0.

**AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT):** None.

Russell Boschee, Director of the Air Pollution Control, addressed the council. They are rewriting a new interlocal agreement with the governing bodies, of which the City of Laurel is a part. Temporary funding was put together to go through the end of December. He wanted to make the council aware of that and see if the council would release the rest of the funding for the year. The agreement will not be done before the end of March and will not be in effect until the first of July. When this issue came up, the agency was funded for six months, and that six months will run out the end of December. He asked if the council would extend the funding for the year.

Mayor Johnson stated that there is usually no response at this point in the agenda, but he did not see any problem in responding. He stated that the item would need to come forward in the form of a resolution in conjunction with the other parties in the agreement.

Mr. Boschee stated that the City of Billings contacted his office and said that the money had been released. The agreement should come to the City of Laurel soon. He offered to address any questions regarding the interlocal agreement.

Mayor Johnson stated that this is an opportunity to address the council, but it is an opportunity for discussion. He is confident that the new mayor will continue the necessary process.

Mayor Johnson asked if anyone else wanted to address the council at this time. There was no one.

**COUNCIL DISCUSSION:**

Alderman Mears asked regarding the amount of money involved in the Air Pollution Control agreement. Alderman Oakes stated that the amount is under \$2,000, about \$1,800. Russ Boschee stated that the yearly contribution is about \$3,000.

Alderman Mears asked regarding the listings of the January 5<sup>th</sup> Budget/Finance Committee and the January 13<sup>th</sup> Council Workshop meetings on the council agenda. These dates will be included on the next council agenda.

Alderman Easton stated that the appointment to the Big Sky Economic Development Nominating Committee has to be done every year. A meeting will be scheduled in the next few days to nominate an appointment for a current vacancy.

Alderman Olson stated that he wanted to go on record to say how much he appreciates Alderman Van Roekel's service to the community. Council members all understand what it takes to put forth an honest effort to be responsible to the council. Alderman Olson thinks that Alderman Van Roekel has filled that in every possible fashion, and he thanked him and wished him luck.

Alderman Van Roekel stated that the past four years have flown by. He can understand why people run for another term. After two, three, or four years, you are just learning what you need to do. Part of him wishes that work, home, and church were less demanding, but that has not happened. He has to devote himself to his work. He likened the city to a huge jigsaw puzzle. There are a lot of pieces in the puzzle that have to come together. As with tonight's discussion, there are different thoughts and debate on how the pieces should come together, but now the ultimate responsibility will be on Ken Olson's shoulders to guide the ship on how to put it together. Alderman Van Roekel thinks that the puzzle is coming together, even though it is sometimes frustrating that it is not coming together quicker. Sometimes you lose the picture that the puzzle is on so sometimes it feels like you do not even have a guideline of what you are doing. He thinks the council's motivation is to get the puzzle put together. Alderman Van Roekel thanked the council for the opportunity to work with them.

Alderman Poehls mentioned that he has not always agreed with the mayor on all the issues during the past two years. However, he commended the mayor on his leadership in the city and the council and thanked him for his dedication to it.

Alderman Mace agreed with the comments.

Alderman Dart mentioned that a fire hydrant at Woodland and South 5<sup>th</sup> has a collar on it that says it is not in working order. Some residents questioned him about it, and he will call the public works department regarding it.

Alderman Dart said that it has been good to work with Alderman Van Roekel. People come and go and the faces change, but the challenges are always there. It is good that people dedicate their time and step up to the challenge to go forward as a group to take care of the challenges and represent the people. Few people will take on this type of challenge, and he thinks the council and mayor should be commended.

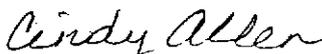
Alderman Oakes stated that he is just starting his new enlistment. He wished Mayor Johnson and Alderman Van Roekel the best of luck in their endeavors, and he hopes that progress can be made in the next four years.

Mayor Johnson thanked the council and everyone in the room for all of the help during his time in office. Sitting in the mayor's chair is an experience. Although the council has not always agreed, he has not thought of that as a negative. Sometimes it is a challenge to make the disagreement into a positive, and he thinks that has been done on a number of occasions. If you are able and you will allow it, you will learn something from those with whom you do not agree. Even though that has been a challenge for him, it has actually happened. Even though things do not always go well, people have been there to help through those times. Mayor Johnson expressed his heartfelt thanks to everyone and stated that he has appreciated the experience greatly.

- Review of Committee Minutes: None.

**UNSCHEDULED MATTERS:** None.

There being no further business to come before the council at this time, the meeting was adjourned at 7:24 p.m.

  
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Cindy Allen, Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 6<sup>th</sup> day of January, 2004.

  
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Kenneth E. Olson, Jr., Mayor

Attest:

  
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Mary K. Embleton, Clerk-Treasurer