

MINUTES OF THE CITY COUNCIL OF LAUREL

August 28, 2012

A special 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 28, 2012.

COUNCIL MEMBERS PRESENT: Emelie Eaton Doug Poehls
 Bruce McGee Mark Mace
 Scot Stokes Chuck Dickerson
 Tom Nelson Bill Mountsier

COUNCIL MEMBERS ABSENT: None

OTHER STAFF PRESENT: Heidi Jensen Sam Painter
 Shirley Ewan Monica Plecker

PUBLIC HEARING:

- **Resolution relating to Special Improvement District No. 114; Final levy of special assessments for maintenance costs on property within the District for the purpose of paying the costs of maintaining certain local improvements.**

Mayor Olson asked staff to introduce the item to the council.

CAO Heidi Jensen stated that the one item on the agenda is a resolution relating to Special Improvement District No. 114 for the final levy of the special assessments for maintenance costs on property within the district for the purpose of paying the costs of maintaining certain local improvements. She asked City Planner Monica Plecker to present the issue.

Monica Plecker stated that this is the last step in the long process of creating SID No. 114 and is to levy maintenance assessments for Elena Subdivision. She asked if the council had any questions.

Council Member Mace asked if the lawnmower would be used strictly in Elena Subdivision and where it would be kept.

Monica stated that the lawnmower will become part of the city's fleet of lawnmowers. The purpose for the lawnmower is that the city's lawnmowers are too heavy duty for freshly seeded grass. If the city used its current lawnmowers, it would tear up the newly-seeded ground, which would put the \$80,000 worth of improvements in jeopardy.

Council Member Dickerson stated that he is not in favor of that. If the residents in Elena have to pay \$10,000 for the lawnmower and the city uses the lawnmower in other areas, it could lessen the lifespan of the mower. The city is not buying the mower to increase its fleet. Elena Subdivision is buying the mower to handle the park out there. He is not in favor of using the lawnmower throughout the city when the city is not purchasing it because the city is not providing the lawnmower to get it going.

Monica stated that the lawnmower is presented in the maintenance assessment because it is a part of maintaining the park.

Mayor Olson asked Monica if other machinery or equipment would be used at the site.

Monica stated that the city will have to do the weed eating and use an edger along the sidewalks. City staff will be used, as well as other city tools and equipment that Elena will not be purchasing through the maintenance assessment.

Council Member Dickerson stated that there is an additional \$10,000 cost to provide the summer help to cut the grass. He hopes that once the grass is established, the city will use one of the current mowers to mow the grass, especially if the new mower had been used throughout the city and the lifespan was short.

Monica stated that the city council will consider the maintenance assessment annually. For this first year, there are a lot of upfront costs to ensure that the new grass survives and the project is worth the \$80,000 the residents are contributing to it. Next year, there would not be a need to purchase a mower. Maintenance costs must be considered and assessed by the council on an annual basis before the first Monday in September. The Subdivision Improvement Agreement (SIA) says that the city will maintain the parks, and this is staff's recommendation.

Council Member Dickerson stated that he was trying to clarify questions and answers for the people in the audience.

Monica stated that the process is open, as there will be a public hearing annually for the assessment. Each year, the council will review the maintenance costs that are recommended by staff. There are a lot of upfront costs now, but those costs will not continue to this extent again.

Council Member Eaton asked if city staff had plans to extensively use this new mower as opposed to using the riding mowers that they already use.

Monica stated not at all. The mowers currently in the fleet are designed for very mature grass. Using a new lighter duty mower would be a time-consuming way to mow grass. It would possibly be used in the future if another project were seeded. She could not say specifically that would be the only time it would be used, but with the matter of efficiency, the city would not want to take heavy duty mowers off mature grass just to use a newer lighter duty mower.

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

Mayor Olson opened the public hearing.

Mayor Olson asked three times for any proponents.

Council Member Dickerson asked if he could speak as a proponent and not as a councilman.

Mayor Olson stated that he was elected to voice his opinion in the forum as a council person so you certainly can speak as the discussion allows for the council.

Mayor Olson asked twice for any proponents.

Denise DesJarlais, 1705 Paynes Place, opposes the lawnmower purchase, as she thinks asking them to pay \$10,000 is exorbitant. She believes that there is some false information about mowing the newly-seeded grass. To her, it sounds like the concern is the first year the grass is in seed, because after that a regular mower would be faster and more efficient. It also sounds like they are purchasing a mower for the city for one year's use. If there is a concern about the use of the mower, she asked if it could be rented at a much cheaper price. It would be 24 weeks at the most, and the grass will probably not be ready to mow for most of that time. Denise stated that \$10,000 for summer help and mowing, feeding and fertilizing seems high, and she thinks that the \$10,000 would take care of renting a mower so the residents would not have to purchase one.

Gretchen Paulson, 1103 Davis Circle, asked if the lawnmower would be kept on site if the neighborhood was to purchase a lawnmower. She understands that the lawnmower would be part of the fleet, but if it was purchased for their neighborhood, she thinks it should be kept on site for the neighborhood to use it. It could be kept in a storage bin in one of the parks, or she would donate her shed to park it in as another option, rather than having it used throughout the city, having its value depreciate, or having it broken.

Mayor Olson asked if there were any opponents.

Kim Schwindt, 1712 DeVaul Drive, is against the mower purchase. She stated that, when you plant grass, you do not need to mow all the grass right away. You let the grass mature and once the grass is mature, there is no reason not to use a heavier duty mower, as it would be efficient and quicker. She stated that the other parks in town are not buying special mowers for their parks. If the mower is being purchased for this park, the mower should just be used for this park. She asked where it would be stored and who would be responsible for repairs.

Mayor Olson asked if there were any other opponents.

Seeing none, Mayor Olson asked if the council had any questions for the staff.

Council Member Poehls stated the questions. The first question is whether the lawnmower would be kept on site.

Monica stated that the lawnmower would be stored at the city shop with the rest of the city equipment for security purposes.

Council Member Poehls stated the second question regarding who is responsible for repairs to the lawnmower.

Monica explained that the city is responsible for maintaining and repairing the lawnmower.

Council Member Poehls stated the next question regarding the need for a special lawnmower.

Monica stated that the retention pond on site creates some issues. It would be difficult to maintain the new grass with the city's current mowers. Regarding the concerns of the costs, Monica stated that, if the city purchased a lawnmower for \$6,000 instead of \$10,000, the other \$4,000 would remain in the fund.

Council Member Poehls asked if the \$10,000 was a high estimate.

Monica explained that it was high, and like the cost of the SID, it is important to estimate a little higher so the process does not have to start over.

Council Member Poehls asked about looking into the possibility of renting a mower instead of purchasing.

Monica stated that the original recommendation was to purchase, so research has not been done on renting or leasing.

Council Member Poehls asked if a council mandate to check on the possibility of renting as opposed to buying would still fit the parameters of this resolution.

Monica stated that would be an option.

Council Member Mountsier asked regarding the difference between a light duty mower and a heavy duty mower.

Monica explained that the difference has to do with size and weight.

Council Member Mountsier asked if this has this been done with the other parks.

Monica explained that this is a very unique situation. One of the concerns she has heard loud and clear is why Elena is the only park that is expected to do this. The Subdivision Improvements Agreement (SIA) is where it all started. The city has considered doing a citywide special district relating to the maintenance of parks, but this is a unique situation as this neighborhood was designed with this in mind. The SID specifically stated that the SID and the maintenance assessment would occur as well as a maintenance assessment and the city would do the maintenance.

Council Member Mace asked what would happen to the district if the special assessment went citywide.

Monica stated that the Elena maintenance district would roll into the citywide district. Elena residents would not be assessed for the citywide special district and also for the Elena Special Improvement District maintenance assessment. They would not be paying twice for maintenance, one for citywide and one for their park. The city took Dorsey & Whitney's recommendation to do a special assessment, which is done on an annual basis, as a way to keep it as a clean process if and when the city decided to move forward in a citywide special district.

Council Member McGee stated his understanding is that the Elena residents would buy a new mower for new grass for a new park. Then when the lawn matures and all the other the equipment that the city presently owns is used out there, he has not heard anybody complaining about that.

Then later when other new parks are established, this new mower in the fleet will be used to mow the new grass. So the people in Elena contributed to the community and bought a mower that is used down the road for other new grass, while older and heavier mowers are used to mow the mature grass in the Elena Subdivision parks after it is established.

Monica agreed with Council Member McGee's statement.

Council Member Eaton asked regarding the \$210.50 cost for the maintenance assessment.

Monica stated that the \$210.50 would be assessed annually in two payments, so it would be \$105.23 twice a year. The maintenance fee will be evaluated every year.

Council Member Eaton asked how it works if the maintenance costs end up less than expected.

Monica stated that the city tracks all of the maintenance costs associated with the SID. If maintenance costs ended up less than anticipated, the remaining amount would be rolled into the next year's budget.

Council Member Mace asked the clerk/treasurer if the money would be in a restricted fund with a line item.

Shirley Ewan explained that the money would be in a separate fund. Shirley needs to set up a 2600 fund for the special district in Elena Subdivision. All the money that comes in from assessments will go into that fund and all the expenditures will come out of that fund. If the funds are not all used, it will cut the assessment down the next year as the clerk will roll over the balance of the cash so the next year it would be smaller. Shirley stated that there will be \$20,000 in and \$20,000 out. The 2600 fund is not in the Preliminary Budget but will be added before the Final Budget is passed next week.

Council Member Nelson asked regarding the \$20,000 and the initial \$80,000 for the SID.

Monica stated that the \$20,000 is a special assessment in relation to the SID. The actual maintenance assessments are \$20,000. The \$80,000 is the cost for the improvements for SID No. 114, and includes the grading, the tilling, the seeding, the sprinkler system and installation, and the boulevard and park work. Since construction will not be done until next spring, only the maintenance costs will be assessed this fall.

Shirley stated that the SID assessment will start next fall and the maintenance assessments will start this fall. The city plans to put in the sprinkler system and the lawn next spring and will then borrow money from InterCap to do the project. Property owners will not see the SID assessment on their taxes until next fall.

Monica explained that the reason why it seems things are out of order is because the law states that the council must assess for the special assessments by the first Monday in September. In order to get the maintenance assessments for next year, it had to be done now.

Shirley stated that the residents will get a good deal because the project will be done six months prior to being assessed on taxes in the fall of 2013. Each property owner will be assessed \$810 for a five-year term for the SID assessment.

Monica stated that all property owners were notified. She stated that the resolution of intent to create the special improvement district and the resolution to create it have been approved, so the district has been created. This issue is just related to the maintenance of the parks.

All property owners were notified by certified mail. Three notices were returned as not deliverable, but someone signed for the rest of them. The notice was also advertised in the *Laurel Outlook*.

Council Member Dickerson asked if there are two parks.

Monica stated that the assessment is for two park parcels and the boulevard.

There was a question regarding rolling over leftover funds at the end of a fiscal year. Shirley explained that this fund will work just like the Street Maintenance Fund, except the 2600 Fund will only take care of park maintenance in Elena Subdivision. When there is money left at the end of the

year from street maintenance, the clerk/treasurer rolls it over into the next year. Additional funds can be used for capital projects or to cut back future maintenance assessments.

Council Member Stokes asked how many weeks the mower would be used.

Monica stated that she could not answer that, as it depends on how the grass progresses. These are cost estimates and any leftover funds would be rolled over.

There was a question about development of both parks at the same time. Monica stated that both parks would be developed at the same time.

There was another question regarding the purchase of a lawnmower and possible use outside of Elena Subdivision and other city equipment that might be used.

Monica explained that it is similar to the way that other city resources will be used to maintain Elena Subdivision in coordination with the maintenance district.

Mayor Olson asked if there were any other questions or comments for the applicant. There were none.

Council Member Poehls asked City Attorney Sam Painter if the council could approve the resolution and direct staff to look into renting a mower instead of purchasing one.

Sam explained that this is the public hearing, and the council's decision will come with subsequent action. The council would be authorizing the assessment, which has nothing to do with purchasing or leasing the lawnmower. That flows to the administration, which must follow the city's procurement policy. State law allows the city to purchase or lease property, whichever is most beneficial for the city. If staff did research that found it is cheaper to lease a mower for a year than to purchase it, the mayor and staff have all the authority they need to do that. No further council action would be needed.

Mayor Olson asked if there were any additional questions from the public.

Don Barkley, 2709 Ames Place, apologized for being late. He stated three questions and also had a fourth question. The questions were: Who belongs to the maintenance district mentioned in this document? How is the maintenance paid for in the other parks in the City of Laurel? Am I as a landowner in the City of Laurel being taxed the same as other landowners in the city for the parks in Laurel?

Monica stated that the SID is for the Elena Subdivision, Second Filing, which includes 95 parcels that are being assessed.

In reply to the second question, Monica stated that the city maintains the other parks. The Elena Subdivision is a unique situation due to the Subdivision Improvements Agreement (SIA) that states that a special improvement district will be formed to complete the parks and that there will be an assessment for maintenance for the parks to be maintained by the city.

Mayor Olson asked Monica to explain a Subdivision Improvements Agreement, how it is brought forward with the creation of the subdivision, and the criteria for protesting SIA's.

Monica explained that the city's subdivision regulations require a SIA when a developer wants to subdivide land. With the Elena Subdivision's SIA, there was a signed waiver of right to protest and the waiver of right to protest specifically mentions the creation of the SID and the maintenance assessment.

Monica answered the third question, which was if he, as a landowner in the City of Laurel is being taxed for parks the same as other landowners in the city.

Monica stated that this is a unique situation as it is a special assessment related to the cost of the SID.

Don stated that was not his question.

Council Member Poehls stated that every property owner in the City of Laurel, including Elena Subdivision, pays into the General Fund, which is used for park maintenance. The city does not have a separate park maintenance district at this time. The Elena SID is above and beyond that because it is a special improvement district. The city has discussed the need for a park maintenance district, and then the entire city would contribute to that special district and the Elena assessment would go away.

Monica clarified that the special assessment would go away, but the SID for the improvements would continue through the five-year term.

Council Member Mace encouraged everyone to vote for the park maintenance district when it is on the ballot in the future.

Don stated that, if he understands correctly, the landowners of Elena Subdivision are being taxed twice. He feels that he is being taxed the same as everybody else in the City of Laurel to pay for maintenance in every park in Laurel. Then he is being singled out as a resident of Elena to pay another tax on a special park in his neighborhood. As a landowner in Elena Subdivision, he thinks he is being taxed twice.

Monica stated that he is being assessed for the maintenance of the park improvements.

There was further conversation. Don asked how he was going to pay for the assessment. Monica stated that the assessment goes on the tax rolls. Don said thank you.

Shirley stated that every property owner is being taxed, but the taxes do not necessarily pay for the parks in town. The tax assessment could be paying for the police, which is \$1.3 million per year.

There was further discussion regarding Don's statement of being taxed twice.

Mayor Olson stated that Mr. Barkley did not come at the beginning of the public hearing to state his questions. At this time, he asked Mr. Barkley to state his comment.

Mr. Barkley stated that it seems to him that what is proposed is discrimination against the landowners of Elena Subdivision as an unfair tax to maintain a public park.

Mayor Olson closed the public hearing.

Motion by Council Member McGee to waive the council rule and to place Resolution No. R12-62 on tonight's agenda, seconded by Council Member Eaton. There was no public comment.

Council Member Mace stated that there were problems with this subdivision from the beginning. The developer left some things awry out there and this is a perfect example of where folks have to pick it up and finish it. The developer signed the waiver and the city is doing what is stated in the SIA. If the residents want a park out there, they have to do it this way or it probably will not happen. The parks are the first thing cut from the General Fund, and the parks in the city right now are not being funded like he would like. That is why he encouraged everyone to vote for a park maintenance district type assessment. He thinks that Elena Subdivision will get the parks they normally would not have had for many years.

A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.

- **Resolution No. R12-62: Resolution relating to Special Improvement District No. 114; Final levy of special assessments for maintenance costs on property within the District for the purpose of paying the costs of maintaining certain local improvements.**

Motion by Council Member Poehls to approve Resolution No. R12-62, seconded by Council Member McGee.

Mayor Olson asked for public comment.

Kim Schwindt, 1712 Duval Drive, stated that she is for the park. She does not understand if the parks will be mowed more often or not, how they are supposed to know that the mower is just specifically being used for their park if it is not stored there, and the issues with the weight and the

size of other mowers. She thinks mature grass can handle a big mower, especially grass that does not need to be mowed for two months or so.

Mayor Olson stated that the lawnmower is not the only thing that will be used for improving the park. The ground has to be leveled and there will be transportation going to and from the park, as well as other costs. He stated that laying claim to the lawnmower is a very respectful thing, but it is necessary to recognize that the majority of the people in the community already paid for a lot of the equipment that will be used in the new parks.

Denise DesJarlais, 1705 Paynes Place, stated that the council could hear loud and clear that they are strongly opposed to the mower. She wanted to go on record one more time that she would like to see that come off altogether. They are all paying those taxes and have contributed in the past to buy that equipment. If they support the park and recreation, they will be contributing to the future of the equipment. She stated that there has not been enough research done as to the merit of having a special mower. She thinks some research needs to be done with landscaping companies, because she does not think the grass will be ready to mow most of next year and a regular mower from the city could be used the following year.

Kat Stokes, 1135 9th Avenue, does not live in the Elena Subdivision. As a taxpayer, she understands why the residents would be completely opposed to the whole mower thing and she agrees. Having worked years in a mowing industry type area, she stated that it is absolutely ridiculous and there is no reason why a special type mower would be needed. After seeding, the majority of the lawns would take six to eight weeks before mowing and the grass would be fine. She proposed having a steering committee for the SID and the maintenance of this park.

Mayor Olson asked for any other audience participation. There was none.

Mayor Olson asked for council discussion.

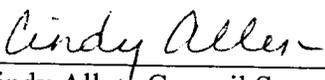
Council Member Poehls commented regarding the issue of double taxation. The developer signed a right to that taxation, so it was in the record when the property owners purchased their property. It is not double taxation because the property owners agreed to it. He stated that the council would probably ask the mayor to direct staff to look into the best options for the lawnmower issue.

Council Member Dickerson thanked everyone for attending tonight's public hearing. He stated that it is sometimes hard to make the right decisions, and the council makes decisions based on what is best for the city. He thinks the development of the parks will increase property values in Elena Subdivision. He mentioned that there are different mowers for different things at the golf course, and staff will try to make the best decisions.

A vote was taken on the motion to approve Resolution No. R12-62. All eight council members present voted aye. Motion carried 8-0.

ADJOURNMENT:

There being no further business to come before the council at this time, the meeting was adjourned at 7:35 p.m.



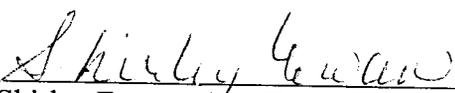
Cindy Allen, Council Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 4th day of September, 2011.



Kenneth E. Olson, Jr., Mayor

Attest:



Shirley Ewan, Clerk/Treasurer