

MINUTES OF THE CITY COUNCIL OF LAUREL

February 5, 2013

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 February 5, 2013.

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: Monica Plecker Sam Painter

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 Mountsier to approve the minutes of the regular meeting of January 15, 2013, as presented, seconded by Council Member Mace. There was no public comment or council discussion. A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.

CORRESPONDENCE:

Laurel Chamber of Commerce: Minutes of December 13, 2012; Agenda of January 17, 2013.

PUBLIC HEARING:

- Nys variance request

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

City Planner Monica Plecker stated that she presented a staff report regarding the request for a variance to exceed lot coverage at last week's workshop. A new staff report made a correction on page two. At the workshop, Monica said that the Eastlick variance request was denied; however, the initial recommendation was for denial, but the issue went back to the Planning Board for a second public hearing and back to the city council and was approved. Monica stated that it is important to remember that, when granting a variance, not all situations are the same. Variances should be considered on a case-by-case basis and a variance should be able to stand on its own merit, not necessarily on what has been done in the past. The request is for a variance to exceed the 30 percent lot coverage to add an addition to a residential building at 110 Fourth Avenue.

Mayor Olson asked for questions or comments from the council. There were none.

Mayor Olson asked the applicants to introduce themselves to the council.

Allison Nys stated that she is the new principal at Graff Elementary. Allison and Mike Nys are moving to Laurel because, as a principal, she needs to live in the district. When they first found this house, they planned to use it as a transition home before they built or found another house. Once they got in the house, they realized they love the community. She has never lived closer than a mile from her work or school, and they have fallen in love with this area. She apologized that she needed to leave to attend a big event at her school tonight.

Mike Nys stated that he was happy to be here and to answer any questions. He stated that he would share some information during his three minutes in the public hearing.

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



Mayor Olson asked twice if there were any proponents.

Mike Nys, 110 Fourth Avenue, stated that he hoped the council had reviewed the variance application. He spoke about some of the issues that were brought up at the Planning Board because he did not have the chance to answer some of the discussion in that forum. He agreed with Monica's statement that this variance should stand on its own and should not be based on precedent that was set. One of the issues that the Planning Board talked about was setting a precedent by granting this variance. His discovery of the last lot coverage variance being approved was a positive thing, but this request should stand on its own. This is a historic home, which does not really play into the legalities of the variance, but it does have an impact on what they want to do. The Planning Board had discussion that they knew this house was too small when they bought it. They intended to buy the house as a transitional property. They still own a home in the county, and their son is still enrolled in another school district until the end of this year. They intended to establish residency here and then decide what to do. Once they were here, they fell in love with the history and the neighborhood. At that point, they looked at the municipal code and found out that the Building Department would deny the building permit since the lot coverage would be over 30 percent. Mike could not find information regarding the other variance request that was denied in the past. The only lot in town that matches the name of that variance request in the minutes is across the street from their house. He stated that a stone's throw across the street is actually the central business district, even though it is all homes. The central business district can cover 50 percent of the lot, but lots across the street can only cover 30 percent. In the definition of variance in the municipal code, there is a discussion of rights of like property in the area or in the zone. Other properties in the circle around them have the ability to cover 50 percent, while the Nys only have the ability to cover 30 percent. Through investigation, Mike found that several lots on their side of the zone exceed 30 percent of lot coverage. With the Eastlick variance that was approved, a lot of the surrounding homes already exceeded 30 percent, so it fit the mold. Regarding building up, Mike stated that there is no way to build up with the structure of a house built in 1905, moved to its present location in 1907, and placed on a sandstone structure and concrete block. There is a basement, as per county records, but it is basically a 6-foot tall utility room and is not living space. They could jack up the property and put a foundation under it. Mike stated that an addition out the back is the only financially feasible way to add some square footage. When they decided to buy this house, their intention was to turn it into an investment property and buy something else, which is still a potential. Another issue was tearing down the other structures on the property, including a bunk house and a carriage house that are part of the historic designation. They have no intention of changing the look of the house or the historic structures. They want to build out the back of the house so it does not change the look from the street, does not change the character of the neighborhood, and does not affect the public in general. They are trying to improve the neighborhood and to add to the value of the surrounding properties. Mike stated that, during the Planning Board meeting, there was discussion on the seven rules to grant the variance. He does not believe there was ever discussion about rules 5, 6, and 7, and nothing was reflected in the minutes other than that they did not apply. The discussion did not get to the point where the request was detrimental to the public good. He does not believe that the minutes accurately reflect the end of the meeting. Mike thanked the council for their time and service.

Mayor Olson asked if there were any other proponents.

Tim Bronk, 715 Wyoming Avenue, is the Superintendent of Schools. He stated that it is a requirement of the employment contract that administrators live in the district. He agreed with Monica's statement that a variance should stand on its own. He knows about following policies and writing rules, but it is important to consider each request on its own merit. He lives in a home that was built in the 1950's and this home is much older. The policies and rules created for the community are necessary, but he thinks the council needs to consider how those rules impact a home that was built 100 years ago, one that was built 50 years ago, or one that was built in the last couple years. He asked the council to consider those things when making their decision.

Linda del Duca, 116 Fourth Avenue, resides just north of the Nys' residence. She has no objection to going over the 30 percent lot coverage. She is happy that the Nys want to keep the front of the house the same.

Lee Richardson, 115 East 13th Street, is a member of the City-County Planning Board. He thinks that the board wanted to approve the variance request but it was a hard decision. He stated that they are a wonderful family. He mentioned that the Van Campens, who live south of the property, have no objection to lifting the 30 percent restriction. Dr. Richardson spoke regarding the Erb family,



Kenny Hageman, Mel Williams and memories of the Erb house. He hopes that the Nys family can enjoy this home, too.

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

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

Mayor Olson closed the public hearing. There were no questions or comments from the council.

Mayor Olson stated that the resolution for the Nys variance was under scheduled matters on tonight's agenda.

CONSENT ITEMS:

- **Claims for the month of January 2013 in the amount of \$307,262.20.**
A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.
- **Approval of Payroll Register for PPE 01/20/2013 totaling \$167,602.30.**
- **Receiving the Committee Reports into the Record.**
 - Budget/Finance Committee minutes of January 15, 2013 were presented.
 - City-County Planning Board minutes of January 3, 2013 were presented.
 - Park Board minutes of January 3, 2013 were presented.
 - Council Workshop minutes of January 29, 2013 were presented.
 - Laurel Library Board minutes of June 12, 2012 were presented.
 - Laurel Library Board minutes of July 10, 2012 were presented.
 - Laurel Library Board minutes of August 14, 2012 were presented.
 - Lease Task Force minutes of January 14, 2013 were presented.

The mayor asked if there was any separation of consent items. There was none.

Motion by Council Member Mace to approve the consent items as presented, seconded by Council Member Poehls. There was no public comment or council discussion. A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.

CEREMONIAL CALENDAR: None.

REPORTS OF BOARDS AND COMMISSIONS: None.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT): None.

SCHEDULED MATTERS:

- **Confirmation of Appointments.**

Laurel Ambulance Service

Mayor Olson appointed Nathaniel Boespflug and Andrew Germain to the Laurel Ambulance Service.

Motion by Council Member Dickerson to approve the Mayor's appointments of Nathaniel Boespflug and Andrew Germain to the Laurel Ambulance Service, seconded by Council Member Nelson. There was no public comment or council discussion. A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.



Laurel Police Reserves

Mayor Olson appointed Shane Wohlschlag, Catherine Shelton, Paul Bickel, Rodney Larson, Kirk Robbins, Adam Lauwers, Kenneth Bland, Michael Leonhardt, Dustin Rivelan and Adam Chenoweth to the Laurel Police Reserves.

Motion by Council Member Poehls to approve the Mayor's appointments of Shane Wohlschlag, Catherine Shelton, Paul Bickel, Rodney Larson, Kirk Robbins, Adam Lauwers, Kenneth Bland, Michael Leonhardt, Dustin Rivelan and Adam Chenoweth to the Laurel Police Reserves, seconded by Council Member Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.

Yellowstone City-County Board of Health

Mayor Olson reappointed Peggy Murch to the Yellowstone City-County Board of Health for a three-year term ending December 31, 2015.

Motion by Council Member Eaton to approve the Mayor's reappointment of Peggy Murch to the Yellowstone City-County Board of Health for a three-year term ending December 31, 2015, seconded by Council Member McGee. There was no public comment or council discussion. A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.

- **Resolution No. R13-04: Resolution of the City Council granting a variance from the City's zoning regulation which prohibits lot coverage from exceeding 30% for property zoned Residential-6000.**

Motion by Council Member Poehls to approve Resolution No. R13-04, seconded by Council Member McGee. There was no public comment.

Council Member Poehls stated that, for the record, the council wanted to include the recommendations from the staff and the Planning Board in the resolution for the change if the carport is ever removed.

Mayor Olson stated that it is imperative to state that one of the things elected officials do when elected to a board is to uphold the variances and ordinances of the city and to ensure that there is just cause to make a variance legal. The council should consider the seven stipulations for a variance request. He stated that LMC 17.60.020 states the duty to "authorize, upon appeal in specific cases, such land use variances from the terms of the zoning ordinances as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinances or regulations will result in unnecessary hardship, and so that the spirit of the ordinances shall be observed and substantial justice done." He stated that it is difficult to interpret those the way they were set because they were set by a previous council, but the stipulations were passed by people who feel that this is the way a normal set of circumstances should be handled under a set of normal occurrences.

There was no council discussion.

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

- **Resolution No. R13-05: Budget amendment resolution amending appropriation and reserves for various funds for fiscal year 2011-2012.**

Motion by Council Member Nelson to approve Resolution No. R13-05, seconded by Council Member Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.

- **Resolution No. R13-06: A resolution of intent to adopt an official Schedule of Fees and Charges for the City of Laurel, repealing all previous resolutions that set fees or charges that conflict with the schedule attached hereto upon its effective date.**



Motion by Council Member Stokes to approve Resolution No. R13-06, seconded by Council Member Poehls. There was no public comment or council discussion. A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.

- **Resolution No. R13-07: A resolution authorizing the Mayor to execute a contract for the City Prosecutor position between the City of Laurel and Brandon Hartford.**

Motion by Council Member McGee to approve Resolution No. R13-07, seconded by Council Member Dickerson.

City Attorney Sam Painter introduced Brandon Hartford to the council.

Brandon Hartford stated that he is an attorney in Yellowstone County. He graduated from law school in May 2003 and worked for the Public Defender's Office for 3.5 years doing felony and criminal matters. Brandon has been in private practice since February 2008 and thinks he is suited to do the job, as his primary practice has been criminal defense. Brandon introduced his wife, Katrina Hartford.

Mayor Olson thanked Brandon for taking time to meet the council.

There was no council discussion.

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

- **Resolution No. R13-08: A resolution approving the attached Task Order No. 28 authorizing Great West Engineering to prepare bidding documents for a design/build project for the Elena Subdivision Irrigation (SID 114) Project.**

Motion by Council Member Eaton to approve Resolution No. R13-08, seconded by Council Member Dickerson. There was no public comment or council discussion. A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.

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: None.

Council Member Dickerson asked regarding his previous inquiry concerning the time length of the left hand turn signal from First Avenue turning east onto Main Street. The item will be on the next council workshop agenda.

Council Member Nelson stated that the next Lease Task Force meeting is scheduled on Monday, February 11th, at 5:30 p.m.

Council Member McGee asked regarding the ordinance for quiet hours. The noise ordinance will be on the February 12th council workshop agenda.

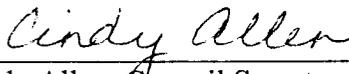
Mayor Olson reported on today's conference call with FEMA. Work is moving forward on the preparation of a proposal to FEMA on the final option for the intake. City staff will meet with Great West Engineering on Friday to review three proposals and determine a conclusion. Five contractors attended today's pre-bid meeting for the sediment removal underneath the bridge. Work should be started in the river within the next month or six weeks.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

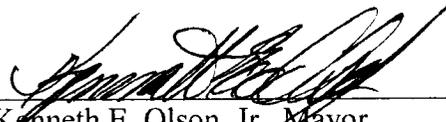
Motion by Council Member Mace to adjourn the council meeting, seconded by Council Member Eaton. There was no public comment or council discussion. A vote was taken on the motion. All eight council members present voted aye. Motion carried 8-0.

There being no further business to come before the council at this time, the meeting was adjourned at 7:12 p.m.



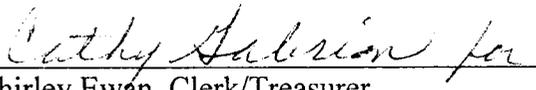
Cindy Allen, Council Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 19th day of February, 2013.



Kenneth E. Olson, Jr., Mayor

Attest:



Shirley Ewan, Clerk/Treasurer