

# MINUTES OF THE CITY COUNCIL OF LAUREL

November 19, 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 November 19, 2013.

**COUNCIL MEMBERS PRESENT:**

|             |                |
|-------------|----------------|
| Bruce McGee | Doug Poehls    |
| Scot Stokes | Mark Mace      |
|             | Bill Mountsier |

**COUNCIL MEMBERS ABSENT:**

|              |                 |
|--------------|-----------------|
| Emelie Eaton |                 |
| Tom Nelson   | Chuck Dickerson |

**OTHER STAFF PRESENT:**

Monica Plecker

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 Stokes to approve the minutes of the regular meeting of November 5, 2013, as presented, seconded by Council Member McGee. There was no public comment or council discussion. A vote was taken on the motion. All five council members present voted aye. Motion carried 5-0.

**CORRESPONDENCE:**

Letter of October 28, 2013, from Ann Fox, Representative for the Markegard family, regarding memorial money for beautification projects in the City of Laurel.

**PUBLIC HEARINGS:**

- **Zimmerman variance request**

Mayor Olson asked City Planner Monica Plecker to introduce the item to the council.

Monica spoke regarding the variance for property located at 802 First Avenue, which is for a fence that has already been constructed and is not in accordance with the ordinance. Since the fence was constructed without a building permit, the only way it can remain is by variance or it will need to be taken down. The applicants submitted a letter and also attended the public hearing. Some things the property owners cited in their need for the variance were an increase in traffic due to the adjacent commercial property and noise and light. There is a lot of pedestrian traffic and they have dogs. Staff checked the clear vision, and there is not an issue with clear vision with the alley or with First Avenue and Eighth Street. The Planning Board recommended approval of the variance as the board felt that since the adjacent property has not always been commercial, it created a special and peculiar situation and was an invasion on their residential property.

Mayor Olson invited the applicants to speak to the council.

Aletta Zimmerman has lived at 802 First Avenue since 1993. It was a green and school zone area at the time they bought the property. They previously obtained a building permit to install a chain link fence for their dogs, but when the property across the street became commercial, the traffic got heavier, the light pollution was horrible, and the garbage increased. Aletta stated that they needed the privacy and built the fence without a building permit. They tried to get a building permit when they first wanted to build the fence. They had bought the materials and her husband had drawn up the plan, but Gary told them they could not build it. They were upset and built it anyway, but want to make it right now paying for the variance and the building permit.

Mayor Olson asked the council if there were any questions for the applicant.



Council Member Mountsier asked Aletta why they did not get a building permit, as she had stated that they were wrong in not getting one.

Aletta responded that Gary told them they could not build the fence. They had bought all the materials, felt that other properties had similar fences, and needed to get it done to have some privacy. Within two or three weeks, they were approached by the city and came to city hall to try to make it right.

Council Member Mountsier asked Aletta if she felt that they would be establishing a precedent for people to ignore the requirements if the council granted the variance.

Aletta did not agree with that. She questioned whether or not variances were granted for a lot of the fences in the area. They live on the main street on First Avenue, and she hopes that the honor system or the building officials treat everybody fairly when checking these issues.

Council Member Stokes stated that he questioned why they would do this at last week's workshop, but he drove by the property, which looks much better than it did, and drove around the neighborhood.

Aletta stated that they were angry but felt badly about it afterwards.

Council Member Stokes stated that he drove around the neighborhood and saw a lot of fences that look like they should not be there. He applauded the Zimmermans for trying to make the situation right.

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

Mayor Olson asked four times if there were any proponents.

Jean Kerr, 1128 Ninth Avenue, stated that protocol needs to be followed to get the proper variances and permits. She has noticed a lot of fences that go up that do not have permits. She has asked code enforcement why permits are not in the windows, but apparently that is not necessary anymore. She thinks it would be a good thing to have the permits posted in the windows again so people know they have one. Jean drove by the house and the fence did not impede her vision, whether she was going north, south, east or west. She also thinks the property looks nicer. When Ricci's was going to build in the neighborhood, people voiced concerns that their property values would be lower. She spoke regarding the Zimmermans using their back yard, having privacy and less noise and the enhancement to their property value. She asked the council to give them the variance, allow them to purchase the proper licenses and let them keep their fence.

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

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

Mayor Olson closed the public hearing.

The resolution for the Zimmerman variance request was item 10. c. under Scheduled Matters.

- **Growth Management Plan**

Mayor Olson asked Monica Plecker to introduce the issue to the council.

Monica stated that, in relation to the public hearing, the council will also consider a resolution of intention for adoption of the Laurel Growth Management Plan (GMP). It is the opinion of legal counsel that the public hearing should be continued for two weeks, and the language is included in the resolution. Continuing the public hearing will provide further opportunity for the community to participate and provide comments. The GMP has been available for review and no written comments have been received. A few individuals reviewed the document in the Planning Office. There were opportunities throughout the development of the plan for the community to be involved and the Planning Board held a public hearing.

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

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

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

The public hearing was continued to December 3<sup>rd</sup>.

- **Ordinance No. O13-03: An ordinance amending Title 6 of the Laurel Municipal Code entitled “Animals” to update the City’s ordinance for the regulation of animals within the city limits including but not limited to dogs, cats, wild/exotic and dangerous animals. (First reading – November 5, 2013)**

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

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

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

Mayor Olson closed the public hearing.

The second reading of Ordinance No. O13-03 is item 10. b. on the council agenda.

**CONSENT ITEMS:**

- **Clerk/Treasurer Financial Statements for the month of October 2013.**
- **Approval of Payroll Register for PPE 11/10/2013 totaling \$168,871.76.**
- **Receiving the Committee Reports into the Record.**

--Budget/Finance Committee minutes of November 5, 2013 were presented.

--Council Workshop minutes of November 12, 2013 were presented.

--Laurel Urban Renewal Agency minutes of October 21, 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 five council members present voted aye. Motion carried 5-0.

**CEREMONIAL CALENDAR:** None.

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

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

**SCHEDULED MATTERS:**

- **Confirmation of Appointments.**
- **Ordinance No. O13-03: An ordinance amending Title 6 of the Laurel Municipal Code entitled “Animals” to update the City’s ordinance for the regulation of animals within the city limits including but not limited to dogs, cats, wild/exotic and dangerous animals. Second reading.**

Motion by Council Member Poehls to adopt Ordinance No. O13-03, seconded by Council Member Mountsier. There was no public comment or council discussion. A roll call vote was taken on the motion. All five council members present voted aye. Motion carried 5-0.

- **Resolution No. R13-87: A resolution of the City Council granting a variance from the City Ordinance that restricts fence height for properties zoned R-7500.**



Motion by Council Member Poehls to approve Resolution No. R13-87, seconded by Council Member Mace. There was no public comment.

Council Member Poehls stated that this resolution has brought up the need to look at the ordinance. At last week's workshop, Monica said that the lots are only allowed a 5-foot clearance from the side of the building out to the side street. Part of the reason someone wants to buy a corner lot is because of the additional space between houses, but if yard size has to be limited because of the fence setbacks, that does not accomplish having a bigger yard with a corner house. Council Member Poehls lives on a corner lot and his fence does not meet the current code, although a permit was granted years ago. He stated that the council needs to review the ordinance because a corner lot has an additional burden for SIDs for sidewalks, curbs, gutters, and streets. There should be some benefits to owning a corner lot along with detriments. He thinks the fence issue needs to be reviewed to see if the limits could be changed, as long as there are no sight issues with intersections.

Mayor Olson asked if the council would agree to have the staff review the issue.

Monica mentioned that this issue is part of the zoning chapter, so the Planning Board would play a role in the review.

Mayor Olson thanked Monica and asked the council regarding putting the issue in the City-County Planning Board's jurisdiction to make recommendations.

Council Member Poehls agreed that it needs to start somewhere and that would be fine.

Council Member Mace asked that the Planning Board pay particular attention to sight distance during the review.

Mayor Olson stated that the comments would be forwarded to the City Planner and the Planning Department to review for the council's consideration at the earliest opportunity.

Council Member McGee stated that he finds it very disconcerting that the council passes laws and has ordinances and then there seems to be an attitude that they can be flippantly ignored, people can do what they want to do, and the council always winds up the heavy in making very difficult decisions concerning situations like this. He wonders why the ordinance exists. If it exists so the council can just ignore it and always grant a variance, then so be it. He looked at the fence and did not see that it causes a sight problem. He is really torn between a matter of fact that the city has a proper procedure and the council follows it versus ignoring it and always granting a variance afterwards. He supports the Planning Board and the concept of looking at ordinances when issues arise. But he finds it disconcerting that the ordinances are ignored, knowing that the city council will never stand up and support its ordinances that have existed even before this city council. He finds it challenging to deal with that, that the code enforcement people do not seem to be able to enforce the code, and that things have to go to the city council before an ultimate decision is made. It makes it very, very difficult to do this job because the council wants to do a very good job for the citizens, wants to take into consideration the factors around every incident that arises, and wants to do the very best for our citizens so they have the very best comfort and very best life they can have here in this community. Council Member McGee stated that he was very torn as to how to vote on this particular issue.

Mayor Olson stated that a set of requirements must be met in order to meet the criteria for a variance. When staff came forward with the recommendation, the criteria were stated in the staff report. Going forward, the criteria for a variance can be reviewed because the process was put in place to address concerns and to provide a tool to justify a decision. Mayor Olson stated that this would be included in the review coming back from the City-County Planning Board.

A vote was taken on the motion to approve Resolution No. R13-87. Council Members Poehls, Mace, Mountsier and Stokes voted aye. Council Member McGee voted nay. Motion carried 4-1.

- **Resolution No. R13-88: A resolution of the City Council authorizing the Mayor to sign a Professional Services Contract with Zeier Consulting LLC to provide services to the City of Laurel and the City's Urban Renewal Agency Board.**

Motion by Council Member McGee to approve Resolution No. R13-88, seconded by Council Member Poehls. There was no public comment or council discussion.

Mayor Olson stated his favor in LURA's recommendation that the council go forward with the opportunity for a consultant. With the addition of this adviser, he thinks there will be a real concerned effort in a lot of the areas which need to improve. He wholeheartedly supports this and wished the consulting firm the best.

A vote was taken on the motion to approve Resolution No. R13-88. All five council members present voted aye. Motion carried 5-0.

- **Resolution No. R13-89: A resolution of intention by the City Council to adopt a new growth policy entitled "City of Laurel Growth Management Plan" to replace the existing growth plan pursuant to Montana Law.**

Motion by Council Member Mountsier to approve Resolution No. R13-89, seconded by Council Member Poehls. There was no public comment.

Council Member McGee stated that the public hearing for the Growth Management Plan is still open.

Monica Plecker explained that, pursuant to Montana law, the council must adopt a resolution of intention, but this resolution of intention does not guarantee the passage of the Growth Management Plan. The resolution states that the public hearing will be open through December 3<sup>rd</sup> at 5:00 p.m., and written comments will be considered until then. Any comments need to be received before 5:00 p.m. to be considered part of the public hearing.

A vote was taken on the motion to approve Resolution No. R13-89. All five council members present voted aye. Motion carried 5-0.

**ITEMS REMOVED FROM THE CONSENT AGENDA:** None.

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

**COUNCIL DISCUSSION:**

Council Member Poehls stated that the Emergency Services Committee will meet on Monday, November 25<sup>th</sup> for a presentation from the Laurel Ambulance Service and a discussion regarding Neighborhood Watch.

Council Member Mace spoke regarding last night's meeting on the long-range Transportation Plan by Robert Peccia from Helena. It amazed him that Laurel has not had a transportation plan study since 1972 and there were a lot of areas with some problems. Another meeting is schedule in January 2014.

Council Member Mace mentioned the public meeting regarding parks that is scheduled on Monday, December 2<sup>nd</sup>, at 7:00 p.m. in the council chambers.

Council Member Mountsier commented about permits in general, since this fence permit variance came up. In this particular case, it was an improvement to the property, but he has seen a lot of times where people have gotten permits and the improvements trashed their property. He suggested that something needs to be written and a fine imposed in case a variance is given and a person builds something that is a problem. A project would just devalue the property overall if it is not built properly.

Mayor Olson stated that his suggestion would be passed to the Planning Department for discussion.

Mayor Olson also attended the transportation plan meeting last night. He looks forward to the continuation of the project in January and how the plan will be a valuable tool for the City of Laurel for its growth in transportation. He commended Monica Plecker and the Planning Department for matching the original \$40,000 budgeted for the plan with an additional \$40,000 from MDT for the plan. The \$80,000 will certainly provide for a valuable product.

Mayor Olson regretfully mentioned that Monica has found an opportunity to move on. He stated that she has been a valued employee for the time she has been with the City of Laurel and he wished her the best.

Monica stated that she will be here until December 20<sup>th</sup>, as she still has several items for the council to consider in the next couple weeks.

**UNSCHEDULED MATTERS:** None.

**ADJOURNMENT:**

Motion by Council Member Mace to adjourn the council meeting, seconded by Council Member Poehls. There was no public comment or council discussion. A vote was taken on the motion. All five council members present voted aye. Motion carried 5-0.

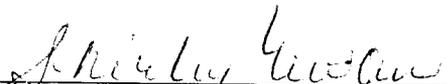
There being no further business to come before the council at this time, the meeting was adjourned at 7:10 p.m.

  
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Cindy Allen, Council Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 3<sup>rd</sup> day of December, 2013.

  
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Kenneth E. Olson, Jr., Mayor

Attest:

  
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Shirley Ewan, Clerk/Treasurer