

MINUTES OF THE CITY COUNCIL OF LAUREL

December 17, 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 December 17, 2013.

COUNCIL MEMBERS PRESENT:

Bruce McGee	Doug Poehls
Scot Stokes	Mark Mace
	Chuck Dickerson
	Bill Mountsier

COUNCIL MEMBERS ABSENT:

Emelie Eaton
Tom Nelson

OTHER STAFF PRESENT:

None

Mayor Olson asked the guests to introduce themselves.

Tammy Harpster, a teacher at Park City Schools, introduced another teacher and three students. They attended the meeting to talk about Park City and Laurel co-hosting the State Student Council event in Laurel in October 2014.

Mayor Olson asked Tammy Harpster to lead the Pledge of Allegiance to the American flag.

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

MINUTES:

Motion by Council Member McGee to approve the minutes of the regular meeting of December 3, 2013, as presented, seconded by Council Member Poehls. 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:

WBI Energy Transmission, Inc.: Letter of November 27, 2013.

PUBLIC HEARING.

CONSENT ITEMS:

- **Clerk/Treasurer Financial Statements for the month of November 2013.**
- **Approval of Payroll Register for PPE 12/08/2013 totaling \$214,484.77.**
- **Receiving the Committee Reports into the Record.**

--Budget/Finance Committee minutes of December 3, 2013 were presented.

--Public Works Committee minutes of November 18, 2013 were presented.

--Emergency Services Committee minutes of November 25, 2013 were presented.

--Public Town Hall Park minutes of December 2, 2013 were presented.

--Insurance Committee minutes of December 6, 2013 were presented.

--Council Workshop minutes of December 10, 2013 were presented.

--Laurel Urban Renewal Agency minutes of November 18, 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 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.

CEREMONIAL CALENDAR: Arbor Day Proclamation

Mayor Olson read the Arbor Day Proclamation, which proclaimed May 2, 2014, as Arbor Day in the City of Laurel.

REPORTS OF BOARDS AND COMMISSIONS: None.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT):

McKenzie Bernhardt, the Student Council President at Park City, stated that Park City and Laurel will be co-hosting the 60th Annual MASC State Student Council Convention in Laurel in October 2014. About 400 additional students will be in the community for three days. The students wanted to notify the city that they will be asking businesses in the surrounding areas to help sponsor the event. The goal is to raise about \$20,000 to provide students with excellent speakers, workshops and outstanding leadership skills. Host families will be needed for the students. The big community service activity will be that the students will go door-to-door asking businesses and community members for food and toiletries that will be donated to Community Hope and Family Services.

Council Member Dickerson spoke regarding past issues and questions that were raised by residents when young folks went door-to-door without identification and prior notice to the public.

Tammy Harpster stated that a letter will be sent out, the students will have their name tags for the convention, and an article will be run in the *Laurel Outlook* to make citizens aware of the event.

SCHEDULED MATTERS:

- **Confirmation of Appointments.**

Police Commission:

Mayor Olson reappointed Mike Kirschenmann to the Police Commission for a three-year term ending December 31, 2016.

Motion by Council Member Poehls to approve the Mayor's reappointment of Mike Kirschenmann to the Police Commission for a three-year term ending December 31, 2016, 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.

Laurel Urban Renewal Agency:

Mayor Olson reappointed Judy Goldsby to the Laurel Urban Renewal Agency for a four-year term ending December 31, 2017.

Motion by Council Member Dickerson to approve the Mayor's reappointment of Judy Goldsby to the Laurel Urban Renewal Agency for a four-year term ending December 31, 2017, seconded by Council Member Mountsier. 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.

Park Board:

Mayor Olson appointed Penny McSweyn to the Park Board to fill a term ending December 31, 2014.

Motion by Council Member Poehls to approve the Mayor's appointment of Penny McSweyn to the Park Board to fill a term ending December 31, 2014, 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.

Laurel Volunteer Ambulance Service:

Mayor Olson appointed Richard Hayner to the Laurel Volunteer Ambulance Service.

Motion by Council Member Stokes to approve the Mayor's appointment of Richard Hayner to the Laurel Volunteer Ambulance Service, seconded by Council Member McGee. 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.

- **Change Council Workshop from Tuesday, December 31st to Monday, December 30th.**

Motion by Council Member Mountsier to change the Council Workshop from Tuesday, December 31st to Monday, December 30th, 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. R13-97: A resolution approving the attached Cooperative Agreement between the City of Laurel and Montana Department of Fish, Wildlife and Parks for removal, replacement and operation of the previously destroyed boat ramp at Riverside Park.**

Motion by Council Member Poehls to approve Resolution No. R13-97, seconded by Council Member Mountsier. 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. R13-98: A resolution of the City Council authorizing the Mayor to sign a modified contract with the City's Chief Administrative Officer (CAO) pursuant to the City Charter.**

Motion by Council Member Mace to approve Resolution No. R13-98, 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.

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 not meet on Monday, December 23rd. He wished everyone a Merry Christmas and Happy Holidays.

Council Member Mace wished everyone Happy Holidays. He stated that the Park Board would probably consider a park maintenance district after the new year begins.

Council Member Dickerson wished everyone a Merry Christmas and safe travels.

Council Member Stokes wished everyone Happy Holidays.

Council Member McGee wished everyone a happy and safe Christmas and New Year. He asked for discussion regarding the park maintenance district and a possible public service levy on a council agenda or special workshop after the first of the year.

Mayor Olson spoke regarding the opportunity to have a goal setting session for the council, including the newly-elected council member, in order to provide direction for the staff to go forward. He suggested setting the session in January or February, after the Ward 2 council seat has been filled. There are a couple of facilitators who are knowledgeable in these types of issues.

Council Member Dickerson mentioned that the committees should also be set by that time.

Council Member Mace recently emailed Dan Clark at the Local Government Center in Bozeman and Dan will let him know which dates are available. Council Member Mace will let the council know the dates as soon as possible.

Council Member McGee stated that the council has some obvious things that need to be tackled and he would like that to be done in the first sixty days of the year. He stated that the council has a tendency to have big problems but not to tackle them, and he would like to see that changed instead of kicking the can down the road and waiting until something is at a crisis point.

Council Member Dickerson suggested that the Saturday meetings have been successful to find out the direction the council wants to go.

Council Member Mace asked the council to write down the questions they want discussed and put them in his box.

Council Member Poehls asked the council to write down their interests in serving on which committees so the appointments can be done in January.

Mayor Olson stated that today's FEMA conference call was cancelled because of the holidays.

Mayor Olson mentioned the Municipal Risk Management and Local Governance training scheduled on Thursday, February 6th, at the FAP conference room in Laurel. Registration forms are available from the clerk/treasurer.

Mayor Olson stated that the newly-elected mayor, Mark Mace, has allowed him to open the council meeting on January 7th and to swear in the newly-elected officials, which will be his last official act. He thanked Council Member Mace for the honor of allowing him to swear him in at his inaugural.

A reception for Mayor Olson is scheduled on December 30th from 5:030 to 6:30 p.m. in the council chambers.

Mayor Olson recessed the council meeting at 7:01 p.m. and called the meeting back to order at 7:04 p.m.

UNSCHEDULED MATTERS:

- **Reconsideration of Resolution No. R13-87**

Motion by Council Member Mace to reconsider Resolution No. R13-87, seconded by Council Member Dickerson.

Mayor Olson stated that the motion must be passed by the majority of the council members, which would be five members.

There was no public comment.

Mayor Olson explained that Resolution No. R13-87 was for a variance request from the Zimmermans regarding fence height. Mayor Olson stated that, at the time of the vote on the resolution, he failed to instruct the council about the number of votes necessary to approve the resolution. As per LMC 2.10.030, when five members constitute a quorum, there must be a unanimous decision by the five council members present in order to pass a motion. At that time, the vote was 4-1, and he signified that the motion passed, which was not correct according to LMC.

A vote was taken on the motion to reconsider Resolution No. R13-87. Council Members Poehls, Mace, Dickerson, Mountsier and Stokes voted aye. Council Member McGee voted nay. Motion carried 5-1.

Motion by Council Member Poehls to approve Resolution No. R13-87, seconded by Council Member Dickerson.

There was no public comment.

Council Member Mace stated that it is good to step back and look at some of the issues. This particular resolution needs to have some dissecting to come up with the present day fences and the present day sight distance. He stated that staff needs to understand that a resolution or ordinance needs to be upheld based on what the resolution or ordinance says and why. He stated that sight distance is what this whole thing is about, and that can be solved by checking the sight distance,

which should be done anyway to make sure there is clear vision that is not obstructed. If clear vision gets obstructed with vehicles and semi-trucks parking, they need to be ticketed by the police force.

Council Member Dickerson spoke regarding the need to review and revise the ordinances to go along with today's communities and to make the ordinances more specific so the department heads have more on which to base their facts and to follow the correct procedures in doing things.

Council Member McGee stated that this is a resolution that defies logic, not because of sight distances or the actual parameters that involve the seeking for the variance. This is a classic case of the council making a mistake by allowing people to do what they want to do when they want to do it. Then the council lets them come back to get approval from the necessary boards and the city council, and then be willing to rewrite ordinances. He stated that this will create a lot of work for the city and will create a lot of injustice in the community. The community cannot be run based upon people treating the laws the way they want to treat them, doing what they want to do when they want to do it, and then expecting the city council to put a rubber stamp of approval on it. That is why he stands adamantly opposed to this, not because he thinks the site of the fence or the fence is the issue, but the way it was done by not bothering to follow procedure and apply for variances properly. He stated that, if the council approves this one, there will be others down the road that the council will also have to approve. He stated that the council should follow whatever the law states.

Mayor Olson stated that one of the things the council as a group recognized was the appearance of the fence. The intent of the ordinance is always for safety and being able to detect oncoming traffic by pedestrians and motorized vehicles. He does not believe that this particular case is a violation of that ethic, but it is a violation of the ordinance. The City-County Planning Board is going to review the fence height ordinance and make recommendations to the council for any changes. That will give council the final authority to determine if there are any outliers that would be allowable, because he believes this is one of those outliers. This is not an inherited problem with safety or line of sight for oncoming traffic, either pedestrian or motorized vehicles. He believes the council should look at this because in certain instances a person has to have the ability to have a privacy fence so they can enjoy themselves. Circumstances preclude the fact that when the Zimmermans first bought the property, there was not a necessity for the fence, but that now is a very busy corner and they have a lack of privacy. Mayor Olson stated that it is the council's prerogative, and if the course the council would like to pursue is to have them tear the fence down, then he believes that it is common sense to say that a private property owner has the ability to have some privacy in their back yard when it abuts a business. They would then incur the cost of putting the fence back up again. He stated that there is no easy way to look at this, but there is an opportunity for the council to make a decision, not predicated on absolutes but based on what would be the best going forward. That is why he thinks there should be some consideration made for this because the City-County Planning Board will vet this and submit its recommendation to the city council.

Council Member Stokes stated that he was adamantly opposed when the issue first came up. After looking at it and other fences in town, he questioned if they would all need to come down. He did not see an issue with the line of sight through the alley. They were wrong and at some point the council needs to draw a line and say no more of it. He does not see a problem with this fence but questioned if other fences that are not proper would need to be taken down.

Council Member Mountsier asked the purpose of having a code on the books if it is not enforced. He understands there are some circumstances and some ordinances ought to be looked at a lot closer, but as Council Member McGee stated, these are the ordinances that are on the books now. They were in violation of the code, there is no way to get around the fact that they were in violation, and they admitted it at a council workshop. He thinks the council will start a trend if it keeps allowing variances for whatever reason. He agrees that the ordinance needs to be reviewed, but it should be enforced the way it is on the books.

Council Member Dickerson questioned if fences that were built without a building permit or not according to code would be required to be torn down. The council knows there is an issue. He questioned if the council wanted to accept it this time and then go forward. He stated that there are other issues all over town, such as spruce trees and bushes.

Council Member McGee would like to know how people know there are illegal fences other than this particular variance. He does not know where that information comes from and if documentation from code enforcement has been given to some of the council members and not to him. He questioned if the council would allow anybody to just build a fence at any time and it will always be acceptable. The reason the issue is difficult and challenging is because the ordinance was not

followed as it is written from the beginning. If it had been, the council would not be having this discussion tonight. The Zimmermans would probably have the variance for the fence because the City-County Planning Board would have probably recommended it to the council and the council would have probably approved it. It would have been a legal fence with a variance granted as it should have been from the very beginning. Council Member McGee stated that the question is whether this council is ever going to take a stand on something. The fence is actually just the obstacle out there that is forcing this particular issue for this council to have to deal with. He personally does not have any malice towards the fence or the people that own the fence. He just thinks that, if an ordinance is in place, you have rules and you follow the rules.

Council Member Dickerson stated that he was not indicating going forward and approving every fence that comes before the council. The council has to keep in mind that the City-County Planning Board recommended approval of the variance. The Planning Board knows there is an issue going forward, so why is there the Planning Board if the council is not going to accept or consider its recommendation. Hopefully the next time this comes about, the Planning Board will review it closer before making a recommendation to the city council to accept their recommendation for approval of the variance. He is sure there will be some closer consideration on variance requests in the future due to this situation.

Council Member Poehls stated that typically these kinds of issues usually come to this point because of a violation. What typically happens is that one issue raises its ugly head and the council sees the ramifications of that issue, such as dog issues, fireworks issues, or something else. This specific issue needs to be addressed right now. The fact that the council needs to look at the ordinance has been brought up. He questioned if the applicants should be penalized because the council has to handle their issue now, knowing full well that an ordinance change is possible and could change the issue. He suggested the option to postpone the decision and tell code enforcement not to process on these people until the City-County Planning Board reviews the ordinance and makes a recommendation to the council. Then the council could make a decision based on that recommendation. He questioned the possibility of delaying the decision until a recommendation was received from the City-County Planning Board so the council could base the decision on that recommendation at a future date.

Mayor Olson stated that the second and motion would have to be rescinded, followed by a motion to reconsider to a date certain.

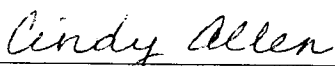
At this point, Council Member Dickerson rescinded his second and Council Member Poehls rescinded his motion to approve Resolution No. R13-87.

Motion by Council Member Poehls to reconsider Resolution No. R13-87 to a date certain on March 18, 2014, 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.

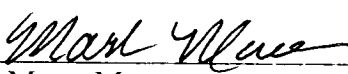
ADJOURNMENT:

Motion by Council Member Dickerson 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 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 7:30 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 January, 2014.


Mark Mace, Mayor

Attest:


Shirley Ewan, Clerk/Treasurer