

MINUTES OF THE CITY COUNCIL OF LAUREL

August 16, 2016

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 Mark Mace at 6:30 p.m. on August 16, 2016.

COUNCIL MEMBERS PRESENT:

Bruce McGee	Doug Poehls
Chuck Dickerson	Richard Herr
	Scot Stokes
	Bill Mountsier

COUNCIL MEMBERS ABSENT:

Emelie Eaton
Tom Nelson

OTHER STAFF PRESENT:

Noel Eaton, City Planner
Tim Reiter, Utility Plants Superintendent

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

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

MINUTES:

Motion by Council Member Stokes to approve the minutes of the regular meeting of August 2, 2016, 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.

Norma J. Cleveland: Letter regarding the RiverStone Board of Health.

Laurel Chamber of Commerce: Minutes of July 14, 2016; Agenda for August 11, 2016.

COUNCIL DISCLOSURE OF EX PARTE COMMUNICATIONS.

PUBLIC HEARINGS:

- **Floodplain variance request for 18 8th Avenue, Town & Country Supply**

Mayor Mace stated that this is the time and place set for the public hearing on the floodplain variance request for 18 8th Avenue, Town & Country Supply.

Mayor Mace opened the public hearing and first asked staff to present the item prior to hearing the public comments.

Noel Eaton, City Planner, stated that this is a floodplain variance from the Floodplain Hazard Management Regulations to allow the storage of tanks of toxic, flammable, hazardous or explosive materials at Town & Country Supply.

Noel read the Staff Findings from her Staff Report dated August 16, 2016.

1. On Wednesday, March 16, 2016, the City of Laurel Floodplain Administrator was informed that the Town & Country Supply Association had started construction work within the floodplain.
2. As determined on panel 1420E of 1875 of the Flood Insurance Rate Map of Yellowstone County, Montana and Incorporated Areas, the subject parcel is within Zone AE of the Special Flood Hazard Areas subject to inundation by the 1% annual chance of flood.
3. A stop work order was issued by the City of Laurel Building and Planning Department as some permits were not approved for construction at the site.

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4. After several meetings held with members from the City of Laurel, Town & Country Supply, KLJ Engineering, and the Montana Department of Natural Resources, it was determined that no floodplain permit applications had been applied for by Town and Country Supply Association.
5. Site plan and footings for a fuel canopy had been approved and inspected for compliance in December 2015 by the previous Building Official.
6. Montana Department of Environmental Quality permitted the underground storage tanks at the subject parcel in October 2015 and the tanks were then installed.
7. As per section 6.2.2 of the Floodplain Hazard Management Regulations, adopted as Laurel Municipal Code 15.70, storage of toxic, flammable, hazardous, or explosive materials are prohibited in the Flood Fringe or Regulated Flood Hazard Area.
8. Town and Country Supplies Association applied for a floodplain permit and variance on May 13, 2016, for the storage of toxic, flammable, hazardous, or explosive material in underground storage tanks within the flood fringe.
9. The United States Environmental Protection Agency has an Underground Storage Tank Flood Guide that DEQ follows when permitting UST.
10. Design and installation of the tanks meets strict flood proofing requirements set forth by DEQ and the designer and installer certification. The tanks deviate from floodplain rules but still fits the intent of the rules in that it is reasonable to expect that no adverse effects will occur from this development during the base flooding event.
11. Development use fits zoning regulations.
12. Consistent with the City of Laurel Floodplain Regulations, public notice was given in the *Laurel Outlook*, a newspaper of general circulation, on July 28, 2016. Letters were mailed out to the adjoining property owners as required by the Floodplain Regulations. One comment was received from an adjacent landowner.

Noel stated that one comment was received at the public hearing for the Planning Board level, and the questions were answered then. There is one letter for this public hearing from Leanne Hackney, who is the representative from DEQ that permitted the tanks.

13. As per the requirements of LMC 17.72.070, a public hearing on the matter shall be held before the zoning commission before being heard by the Laurel City Council. The Laurel City-County Planning Board and Zoning Commission held a public hearing on July 7, 2016. As per B. of the section, public notice was published in the *Laurel Outlook* and adjacent property owners were notified by certified mail 15 days prior to the public hearing.

Noel read the Evaluation of Floodplain Variance Application, which was included in her staff report. She stated that there are ten criteria.

A variance shall only be issued upon a determination that the variance is the minimum allowance necessary, considering the flood hazard, to afford relief from these regulations and provided all of the following criteria are met (Section 12.4.1 of the Floodplain Hazard Management Regulations). Her staff update explains why each of those have been met.

Noel then read the staff suggested conditions:

1. Each condition within the Department of Environmental Quality Underground Storage Tank Permit #16-0056 must be met.
2. There will be no increase to the Base Flood Elevation at any point in time.

Noel read the Staff Update from the Planning Board. Two proponents attended the Planning Board's public hearing. One proponent was Leanne Hackney from DEQ and the second proponent was Kurt Brumfield, who installed the tanks. At the Planning Board's public hearing, Kurt stated that everything was done in accordance with DEQ's regulations. Leanne's letter details about how the underground storage tank has been installed, meeting stricter standards than what DEQ requires as far as buoyancy and such.

The ten (10) criteria for the floodplain variance from Section 12.4.1 were outlined in the Staff Update, and Noel read the criteria, followed by the response from Town & Country.

1. **There is good and sufficient cause. Financial hardship is not a good and sufficient cause.** Town & Country stated that the hardship is that the underground fuel tanks were permitted by DEQ and the site plan and fuel canopy received approval from the City of Laurel prior to submitting the application for a floodplain permit.

2. **Failure to grant the variance would result in an exceptional hardship to the applicant.** Town & Country Supply stated that a lot of the work approved by the City of Laurel and installed by the owner would have to be removed or abandoned.
3. **Residential dwellings, including basements and attached garages, do not have the lowest floor elevation below the Base Flood Elevation.** Town & Country stated that no residential structures are being proposed.
4. **Any enclosure including a crawl space must meet the requirements of Section 10.2.14. Wet Flood proofing if the enclosure interior grade is at or below the Base Flood Elevation.** Town & Country stated that no crawl spaces are being proposed.
5. **Granting a variance will not result in increased flood heights to existing buildings, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinance.** Town & Country stated that the vessels have been permitted by DEQ and have been anchored to resist uplift and are proven to be water tight.
6. **The proposed use is adequately flood proofed.** Town & Country stated that the vessels have been permitted by DEQ and have been anchored to resist uplift and are proven to be water tight.
7. **The variance is the minimum necessary, considering the flood hazard, to afford relief.** Town & Country stated that all other work associated with the project is an allowed use within the flood fringe.
8. **Reasonable alternative locations are not available.** Town & Country stated that the tanks have been installed and foundations poured, as approved by the City of Laurel.
9. **An encroachment that causes an increase to the Base Flood Elevation that is beyond that allowed in these regulations cannot be permitted by a variance but may only be allowed if an alteration is approved pursuant to Section 4.** Noel stated that there will be no impact to the base flood elevations.
10. **All other criteria for a flood plain permit besides the specific development standard requested by variance are met.** Noel stated that all other criteria for the floodplain permit, besides the specific development standard request by the variance, have been met.

Noel stated that the Laurel City-County Planning Board voted on the motion to approve the variance for Town & Country Supply, and the motion carried 4-1. Noel mentioned that the applicant attended tonight's meeting.

Mayor Mace opened the floor for public comment and stated that copies of the rules governing the public hearing have been posted in the council chambers.

Mayor Mace asked twice if there were any proponents.

Josh Starr, 4650 Metzger Road, Laurel, represents Town & Country Supply. Josh thinks this is a good idea, a good use for the site, and a good development for the west end of Laurel. It is right at the edge of town, so any future development to the west of town would actually be out of the city limits unless the council annexes some land. Improvements to the site include landscaping, paving, and proper water handling on the site from storms and such. Josh stated that it will be attractive and a beneficial addition to the community.

Mayor Mace asked if there were any other proponents. There were none.

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

Mayor Mace closed the public hearing.

- **Final Levy Assessment for Maintenance Costs for Elena Subdivision**

Mayor Mace stated that this is the time and place set for the public hearing on the final levy assessment for maintenance costs for Elena Subdivision.

Mayor Mace opened the public hearing and first presented the item prior to hearing the public comments.

Mayor Mace stated that the final levy for the maintenance costs of the park area in Elena Subdivision is \$5,000 total, or \$53.20 per property, for the 2016-2017 fiscal year. Notices were sent to the property owners and the public hearing was advertised twice in the *Laurel Outlook*.

Mayor Mace opened the floor for public comment and stated that copies of the rules governing the public hearing have been posted in the council chambers.

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

Mayor Mace asked if there were any opponents.

Wayne Fox, 1015 Duval Drive, represented Brimway Homeowners' Association and had some questions. He stated that two-thirds of the residents did not receive an information packet from the city. He personally did not receive one but had a copy from his neighbor. Mr. Fox asked what exactly the entire district of Elena Subdivision is.

Wayne Fox stated that there are approximately 60 homes and more under construction every month in Elena Subdivision. He has no way of knowing how many or what percentage of those folks received a packet, other than reading in the *Outlook* what the city's intentions were. He addressed the park and stated that the park can be fit inside two-thirds of a football field and it is a sinkhole. There is a body of water at the bottom of it that is about 20 feet in diameter. He questioned what exactly is this park for? Wayne stated that no adults are going to use this park because of the incline. There are no adults that would want their kids down in the water. He can only think that it is going to be a dog park. He does not understand. He stated that the city, in its infinite wisdom, came out and planted five trees and they cut lawn around this little park. He questioned if any of the council had been out to look at this park. He stated that it is ridiculous. He asked, "why is it designated a park and what do you designate as a park for the City of Laurel?" Mr. Fox stated that there are a bunch of seniors out there and this increase does not go well with them. He assured the council that there are no seniors that are going to use that park. He asked for someone to clarify any information that he just brought up.

Mayor Mace responded that the questions were taken down and someone will get back to him. Mayor Mace explained that, as far as the park, it is designated based on the subdivision and there needs to be a certain amount of square foot of park in that subdivision.

Mr. Fox asked if the taxes are going to be spread out amongst 60 homes or how exactly that works. He stated that this has not been addressed.

Mayor Mace stated that the 90 [94] properties on the list were sent notice, just as Mr. Fox was.

Mr. Fox stated that he did not receive a copy personally, but he has a letter from his neighbor. As he stated before, he is here to represent Brimway Homeowners' Association. This was all news to him.

Mayor Mace asked for his address.

Mr. Fox stated his address as 1015 Duval.

Mayor Mace checked the list and asked if he was Wayne and Mary Kay Fox.

Mr. Fox stated that was correct.

Mayor Mace stated that the letter was sent to them.

Mr. Fox questioned when it was sent, as he has not received it. The letter he had was sent to Mr. Keith Neumiller on the 3rd of August.

Mayor stated that the letters were mailed on the 3rd of August.

Mr. Fox again stated that he did not receive his copy, but those are their concerns primarily.

Mayor Mace asked twice if there were any other opponents. There were none.

Mayor Mace closed the public hearing.

CONSENT ITEMS:

- **Clerk/Treasurer Financial Statements for the month of July 2016.**

- **Approval of Payroll Register for PPE 07/31/2016 totaling \$193,996.06.**
- **Receiving the Committee/Board/Commission Reports into the Record.**
 - Budget/Finance Committee minutes of August 2, 2016 were presented.
 - Council Workshop minutes of August 9, 2016 were presented.
 - Laurel Urban Renewal Agency minutes of August 1, 2016 were presented.

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

Council Member Dickerson stated that a correction was needed to the Payroll Register for PPE 07/31/2016 totaling \$193,966.06. The amount should be \$193,996.06, as approved by the Budget/Finance Committee.

Motion by Council Member Poehls to approve the consent items as presented, with the correction to the Payroll Register for PPE 07/31/2016, 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.

CEREMONIAL CALENDAR: None.

REPORTS OF BOARDS AND COMMISSIONS: None.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT): None.

SCHEDULED MATTERS:

- **Confirmation of Appointments.**
- **Resolution No. R16-70: 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 McGee to approve Resolution No. R16-70, seconded by Council Member Dickerson.

Mayor Mace asked if there was any public comment. There was none.

Mayor Mace asked if there was any council discussion.

Council Member McGee stated that this this seems to be a recurring issue because the city has to do the maintenance assessment every year, and it does not seem like the folks in the Elena Subdivision are happy with their park. He wishes for a way to reconcile that. Council Member McGee stated that these things were decided when the subdivision was formed, long before he was on the city council. Land that is not used in building oftentimes becomes park property. Whether the people use the park or do not use the park is not really the issue. The issue that parks are established for subdivisions and their maintenance and care has to be taken care of somehow. He explained that this was decided years ago, and everybody who has ever bought property in the Elena Subdivision signed at closing the documents that said they agreed to it. Either they agree to it or they do not, but the city cannot change it at this point. He hopes it turns out to be a really nice park that is enjoyed by people one day and they realize the money they spent on it is going to be very valuable. Since he moved to approve this resolution, he wanted it on the record that he understands what is going on and understand the concerns. He thinks that, down the road, this will turn out to be a beneficial thing for both the subdivision and the community.

Mr. Fox stated that there was nothing in the agreements that indicated the park was going to be a sinkhole with mud.

Council Member Dickerson asked if, with the concerns that Mr. Fox has expressed, the issues could be checked into and put on the next council workshop agenda for further discussion, specifically regarding the severity of the sinkhole.

Mayor Mace stated that any such item or complaint brought up under public comment is directed to the Public Works Department. The discussion item will be on the August 30th council workshop agenda.

Council Member Herr questioned if there could be a motion to delay voting on this resolution for a week or two.

Mayor Mace stated that the resolution has to be passed by the first Monday in September.

Council Member Herr withdrew his comment.

Council Member Poehls agreed with Council Member McGee's comments. He stated that all of the homeowners knew there was going to be a park in that subdivision when they bought their properties. As a young man growing up in west Billings, he lived at the end of a street that was promised to be a park someday. It was totally undeveloped for the whole time he lived there for fifteen to twenty years, but it was always promised to be a park. When he returned after going to college, the property was not a park but residences were built on it. He stated that parks are an evolutionary process. Another park a couple blocks away was a dirt pile the whole time he was growing up, but now it is a gorgeous park. A park development fund was created that helped develop that park. The Elena Subdivision residents need to figure out how to leverage the maintenance dollar to develop this park, as this park needs to be developed.

There was no further council discussion.

A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

- **Resolution No. R16-71: Resolution of the City Council granting a variance from the City's Building Code which prohibits storage of toxic, flammable, hazardous, or explosive materials in the flood fringe or regulated flood hazard area.**

Motion by Council Member Poehls to approve Resolution No. R16-71, seconded by Council Member Dickerson. There was no public comment.

Council President Poehls stated that this is a good development. He remembers what this property used to be like when during flood events, but some of the storm water issues were addressed with the Eighth Avenue Project with some holding ponds further uphill. This would be a great way to utilize that corner and actually mitigate some of the flooding issues in that corner. He thinks it will be beneficial to that area to reduce the flooding hazard that area has had in the past.

Council Member Dickerson stated that Town & Country has done an excellent job in taking a structure that was primarily vacated and turning it into an office building for employees. They are trying to provide a service for that end of town to provide a lot of conveniences that are not in that area. They are making an effort to beautify a section of town that virtually was nothing up until a couple years ago. Council Member Dickerson looks forward to seeing them go forward and being completely done.

There was no further council discussion.

A vote was taken on the motion. All six council members present voted aye. Motion carried 6-0.

- **Resolution No. R16-72: A resolution of the City Council authorizing the Mayor to sign a contract with Curb Box Specialists Inc. for EZ valve installation.**

Motion by Council Member Herr to approve Resolution No. R16-72, 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.

- **Resolution No. R16-73: A resolution to authorize the Mayor to sign an agreement with Laurel Public Schools, District 7 and 7-70, continuing the School Resource Officer (SRO) Program for the Laurel Middle School.**

Motion by Council Member Dickerson to approve Resolution No. R16-73, 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. R16-74: A resolution to authorize the Mayor to sign an agreement with Laurel Public Schools, District 7 and 7-70, continuing the School Resource Officer (SRO) Program for the Laurel High School.**

Motion by Council Member Mountsier to approve Resolution No. R16-74, 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.

ITEMS REMOVED FROM THE CONSENT AGENDA: None.

COMMUNITY ANNOUNCEMENTS (ONE-MINUTE LIMIT): None.

COUNCIL DISCUSSION:

Council Member Dickerson reminded the council that there is no council workshop next Tuesday. The next council workshop will be on Tuesday, August 30th.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

Motion by Council Member Poehls to adjourn the council meeting, 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.

There being no further business to come before the council at this time, the meeting was adjourned at 7:02 p.m.

Cindy Allen
Cindy Allen, Council Secretary

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 6th day of September, 2016.

Mark A. Mace
Mark A. Mace, Mayor

Attest:

Shirley Ewan
Shirley Ewan, Clerk/Treasurer