

**MINUTES
COUNCIL WORKSHOP
AUGUST 9, 2016 6:30 P.M.
COUNCIL CHAMBERS**

A Council Workshop was held in the Council Chambers and called to order by Mayor Mark Mace at 6:30 p.m. on August 9, 2016.

COUNCIL MEMBERS PRESENT:

<input type="checkbox"/> Emelie Eaton	<input checked="" type="checkbox"/> Doug Poehls
<input type="checkbox"/> Bruce McGee	<input checked="" type="checkbox"/> Richard Herr
<input checked="" type="checkbox"/> Chuck Dickerson	<input type="checkbox"/> Scot Stokes
<input checked="" type="checkbox"/> Tom Nelson	<input checked="" type="checkbox"/> Bill Mountsier

OTHERS PRESENT:

Heidi Jensen, CAO
Noel Eaton, City Planner
Town & Country Supply representatives

Public Input

There was no public input.

General items

There were none.

Executive Review

- Resolution - Floodplain Variance for Town & Country Supply (PH on August 16, 2016)
City Planner Noel Eaton read the Staff Report for the variance request for the storage of toxic, flammable, hazardous or explosive materials at Town & Country Supply Association. A copy of the staff report is attached to these minutes.

Noel stated that the applicant and the engineering company attended tonight's meeting to answer any questions.

Tom questioned why the work was stopped in March and Town & Country was at the City-County Planning Board in July.

Noel explained that she was at a Floodplain Conference when she was informed about the work being done. When she returned, Noel and the building official realized that there were no building or floodplain permits in place, so they contacted Josh Starr at Town & Country about the project. The time lapse is when the city and Town & Country had meetings to figure out what had and had not been permitted. A fuel canopy was approved and inspected by Gary Colley in December. Gary retired from the city in February.

Noel stated that Town & Country had been approved for the tanks by DEQ. However, the applicant switched engineering companies and started to rework the drainage plans and submit applications and

floodplain permits, and generally get on track while the city did the same. Working together over the several months allowed the city and Town & Country to figure out exactly how to proceed.

Josh Starr, with Town & Country, stated that it is a long story, as it has been almost a year. Once Town & Country purchased the site from the cable company, they hoped to develop the big empty dirt lot with an ugly concrete building on it. Town & Country hired an engineering firm and told them what they wanted to do and they went forward. The standard operating procedure is to get the permit for the underground storage tanks from DEQ. At the time, DEQ had never really looked at the floodplain portion of their underground storage tank permitting situation. DEQ always felt that they were the end-all be-all. If DEQ says a storage tank can go in, a storage tank can go in.

Josh explained his perspective as to what happened. Noel started working for the city in October, and she went to the Floodplain Conference, where everybody met. Town & Country's original engineer was at the conference, realized that he made a huge mistake, and told Noel about the site. That is when the whole issue got noticed. Josh stated appreciation for working with Gary on a lot of projects. He stated that the current process is a professional and structured way of doing things and would prevent anything like this from happening again. He has learned more about floodplains than he ever expected to know. Town & Country stopped the project in March, sent the contractors on their way, and worked to figure out what needed to be done so the City of Laurel was not in a position to be liable for floodplain mismanagement and Town & Country would not be a bad neighbor to the town. Josh stated that the town is very important to the old Laurel Co-op Association.

Tom asked regarding discussion in the City-County Planning Board minutes concerning trying to get the floodplain moved. Josh had said that was in a tight area and that there was the possibility to move it so the property is not in the floodplain.

Josh explained that Town & Country hired KLJ to redo a flood study for that part of town. The County did implicate that there is that rectangle of floodplain to the north of the Old Highway 10. Town & Country is waiting for the results of the study, as KLJ is still building the computer model. FEMA cannot locate the data that says it is in the floodplain, so it is necessary to recreate the original data and recreate the current data. There have been a lot of changes on Eighth Avenue with culverts and ditches and development that change things quite a bit. They discovered through the project that initially the variance is the appropriate action and later, if they are looking for occupancy of the building or different usages for the property beyond just a car lot fueling site, that would require changes to the actual floodplain.

Noel stated that, at this point, everything has been permitted properly and is approved for the project except for this variance. The onsite building has been permitted. Noel has worked very closely with Sam Johnson, the regional engineer for DNRC, and Tracy Sears, the FEMA rep for DNRC. They have known about this project since it started. Since Noel was new to this position, she needed help from them regarding floodplain regulations in general and the project, and they have given their blessing to proceed with this variance.

Tom asked if the city would continue to follow up to see if the property could be removed from the current floodplain designation.

Noel explained that it would take a lot of time and money, the city does not have the means to do that and the city would not benefit from it.

Tom asked if Town & Country planned to pursue that to the fullest extent.

Josh responded that they do. Town & Country had the surveys done and they are in the process of building the computer model that calculates the information. They can establish the current information, but since FEMA does not have the data used to designate it, the engineers have to recreate the data from what it was when FEMA designated it after the flood event happened in 1978. If it works out, it would benefit the homeowners that are continuing on the north side of the old highway. If there is an invalid estimate of it being in the floodplain, Town & Country will do all the steps. The local Floodplain Administrator, which is Noel, will review it, give her opinion and forward it to the County, which would forward it to the State. The State would provide comments and then forward it to FEMA for their final ruling. Since the timing of that is unknown, Town & Country has applied for the variance so they can actually use the asset and move forward.

- Resolution – Final Levy of special assessments for maintenance costs in SID No. 114 (PH on August 16, 2016)

Heidi stated that this is the final levy for the maintenance district in the Elena Subdivision. The cost of the maintenance is \$5,000. The remaining money from this year was used to plant trees in the subdivision, and positive feedback has been received from the property owners.

- Resolution - Small Service Contract with Curb Box Specialists

Heidi explained that the \$7,900 contract is needed to install a valve to shut off the water before the waterline replacement project is started on First Avenue.

- Resolutions - Laurel Middle School and Laurel High School SRO contracts

Heidi stated that the two resolutions are for the School Resource Officer contracts for the Laurel Middle School and the Laurel High School. Heidi and the police chief recently met with the new superintendent to discuss how last year went, as there was a change in SRO officer at the high school. The superintendent was pleased with the SRO officers and the services the program provides to the schools. The contracts increased 3 percent this year, based on the union contract. The school board recently approved the contracts.

- Council Issues:

- Discussion - Laurel Outlook's FOIA request (Chuck Dickerson)

Chuck started to ask some questions of Kathleen, from the Laurel Outlook.

Mayor Mace stated that the CAO had already answered the Outlook's requests.

Chuck had no further discussion.

Heidi stated that any entity has the right to ask for information under the Freedom of Information Act and the city will continue to do its best to answer those requests. The conceptual drawing requested was sent to the Outlook last week. She sent a response regarding the minutes. Although she has no minutes for the request, she will try to create an attendance record and provide an agenda topic, which was a training session regarding the consolidation of committees at the city.

- Montana League of Cities and Towns Convention - October 5th-7th in Missoula

Heidi has reserved a specific number of rooms at the Hampton Inn in Missoula. She requested a tally of who plans to attend the conference in order to finalize the rooms. The actual convention will be at the Hilton Garden Inn, which is next door to the Hampton Inn.

Mayor Mace asked if any council members plan to attend.

Tom plans to go and Richard would like to attend if transportation is available.

An email will be sent to the absent council members to find out if they will attend.

○ Update on 2011 Yellowstone River flooding event

Heidi spoke regarding today's construction meeting. Four change orders will be presented at the next council workshop. Wilson Brothers is doing their best to make sure that the public dollar is being spent the best that it possibly can. The project is moving on both ends, as there is a crew at the Water Treatment Plant and a crew that works three miles upstream. They are working to make sure that the tie-in to the Water Treatment Plant will be ready when the pipe gets to them.

Heidi stated that the city received a permit from the Corps, as well as the 404 Permit, and is fully permitted for the project. The city is now going to the Army Corps to ask for an emergency permit. The current intake is fully exposed and the warm weather will cause some problems soon. The city is asking the Corps for permission to place the rock weir that was removed at the beginning of runoff back in the river. All of the rock is stockpiled in Riverside Park and next to the Water Treatment Plant, so it would be a matter of putting it back in the river. Great West Engineering started that process with the Corps yesterday. The council should see a request to expend those funds soon.

Heidi stated that quite a bit of outstanding funding for bills the city paid needs to be returned to the city. The DES Department will be contacted about this money, as the city has not received any funds from FEMA this whole fiscal year, according to the clerk/treasurer.

Richard asked regarding the cost to put the weir back in.

Heidi explained that, as long the city gets a permit from the Army Corps prior to doing any construction, FEMA will pay 75 percent of the cost. The city will not know the cost until bids are solicited for the project.

Tom asked if the rocks are counted when they go in the river and when they come out of the river.

Heidi explained that the city was permitted for and had to remove the rocks that were above the water level. If you look in the river, you can still see where the weir was from the winter. The city just had to take off the top layer. The city keeps track of the tons that are put in and the tons that are removed. The weir and the intake are currently visible from the bridge, and that is why the cone has been placed on the intake.

Other items

There were no other items.

Review of draft council agenda for August 16, 2016

- Public hearings:

- Floodplain variance for Town & Country Supply
- Final levy of assessment for special assessments for maintenance costs in SID No. 114

There was no discussion.

Attendance at the August 16, 2016 council meeting

Tom will not attend the meeting.

Announcements

Mayor Mace asked the council to sign a birthday card for a lady who turned 100 on July. The lady's daughter contacted him, explained that her parents had lived in thirteen different cities, and had lived in Laurel for eleven years. When they lived in Laurel, he was responsible for starting the pancake breakfast for the 4th of July and they both worked at the Wold Department Store. The daughter was trying to get every town that they had lived in to send her either a card or some kind of proclamation.

Recognition of Employees

- | | | |
|-----------------|---|----------------------------|
| ● Matt Wheeler | 7 years of service on August 18 th | Maintenance Superintendent |
| ● Keith Kolstad | 3 years of service on August 5 th | Code Enforcement |
| ● Thomas Henry | 2 years of service on August 1 st | WWTP |

Mayor Mace stated appreciation for the employees' service to the City of Laurel.

The council workshop adjourned at 7:09 p.m.

Respectfully submitted,



Cindy Allen
Council Secretary

NOTE: This meeting is open to the public. This meeting is for information and discussion of the Council for the listed workshop agenda items.



LAUREL CITY-COUNTY PLANNING DEPARTMENT

STAFF REPORT

TO: Laurel City Council
FROM: Noel Eaton, City Planner
RE: Variance for the storage of toxic, flammable, hazardous or explosive materials at Town & Country Supplies Association
HEARING
DATE: August 16, 2016

Town & Country Supplies Association submitted a variance to allow the property off of East Main Street and 8th Avenue known as Town & Country Supplies to allow for the installation and use of Underground Storage Tanks of toxic, flammable, hazardous or explosive material in the flood fringe (LMC 15.70, Floodplain Hazard Management Regulations section 6.2.2, ARM36-15-703(2))

- (A) On Wednesday March 16th, 2016 City of Laurel Floodplain Administrator was informed that the Town and Country Supplies Association had started construction work within the floodplain.
- (B) 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.
- (C) 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.
- (D) After meetings held with members from the City of Laurel, Town & Country Supplies, 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 Supplies Association.

- (E) Site plan and footings for a fuel canopy had been approved and inspected for compliance in December 2015 by the previous Building Official.
- (F) Montana Department of Environmental Quality permitted the underground storage tanks at the subject parcel in October 2015 and the tanks were then installed (see attached permit).
- (G) 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.
- (H) Town and Country Supplies Association applied for a floodplain permit and variance on May 13th, 2016 for the storage of toxic, flammable, hazardous, or explosive material in underground storage tanks within the flood fringe.
- (I) The United States Environmental Protection Agency has an Underground Storage Tank Flood Guide that DEQ follows when permitting UST.
- (J) 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 development rules but still fits the intent of the rules in that; it's reasonable to expect that no adverse effects will occur from this development during the base flooding event.
- (K) Development use fits zoning regulations.
- (L) 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.
- (M) 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 7th, 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.

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):

1. There is good and sufficient cause. Financial hardship is not a good and sufficient cause;
2. Failure to grant the variance would result in an exceptional hardship to the applicant;
3. Residential dwellings including basements and attached garages do not have the lowest floor elevation below the Base Flood Elevation;
4. Any enclosure including a crawl space must meet the requirements of Section 10.2.14. Wet Flood Proofing if the enclosure interior grad is at or below the Base Flood Elevation;
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 ordinances;
6. The proposed use is adequately flood proofed;
7. The variances is the minimum necessary, considering the flood hazard, to afford relief;
8. Reasonable alterative locations are not available;
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 Sections 4; and
10. All other criteria for a Flood Plain permit besides the specific development standard requested by variance are met.

If the Planning Board recommends approval of the land use variance, the following conditions are suggested:

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.

The Laurel City County Planning Board held a public hearing to review the variance on July 7th at 10:00am at their regularly scheduled meeting.

There were two proponents that attended the public hearing; Leann Hacknee from DEQ spoke. She works in the underground storage tank protection program which was started in 1984 to protect human health in the environment. This includes very strict regulations for installing underground storage tanks and also what kind of underground storage systems that can be installed such as double wall piping verses your single wall piping.

Leann went on to say the situation with Town and Country Supply is a concern about float out of the tank and the tank top tightness. She assured the board that Town and Country Supply was assisted with the calculations and all requirements have been met on the tanks.

Kurt Brumfield of 719 4th Avenue N in Billings spoke. He is the installation contractor that installed the tanks. He has followed all the requirements of the DEQ and all the tanks were installed properly and safely. He also stated he is a proponent for the project.

There was one letter submitted in opposition from Monna Rae Addickes of 108 8th Ave. #B. Noel tried to answer her questions and concerns as best as possible however some questions did not pertain to the variance itself nor was it a concern the City could regulate. Her letter with Noel's answers is attached in the minutes.

The 10 criteria from section 12.4.1 of the Floodplain Management Regulations were reviewed, that portion of the minutes is below.

1. There is good and sufficient cause. Financial hardship is not a good and sufficient cause;
Town and 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 a floodplain permit being applied for.
2. Failure to grant the variance would result in an exceptional hardship to the applicant;
Town and 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 and Country stated 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 grad is at or below the Base Flood Elevation;
Town and Country stated 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 ordinances;

Town and Country stated 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 and 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 and Country stated that Yes, all other work associated with the project is an allowed use within the flood fringe.

8. Reasonable alternative locations are not available;

Town and Country stated the tanks have been installed and foundations poured as approved by the City of Laurel.

Almost the entirety of this parcel is within the Floodplain.

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 Sections 4; and

Noel stated 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 flood plain permit besides the specific development standard request by the variance have been met.

The Laurel Planning Board voted on the motion to approve the variance for Town and Country. The motion carried 4 – 1.