# MINUTES COUNCIL WORKSHOP OCTOBER 25, 2016 6:30 P.M. COUNCIL CHAMBERS

A Council Workshop was held in the Council Chambers and called to order by Council Vice-President Tom Nelson at 6:30 p.m. on October 25, 2016.

## **COUNCIL MEMBERS PRESENT:**

Emelie Eaton	_x_ Doug Poehls
x Bruce McGee	_x_ Richard Herr
Chuck Dickerson	x Scot Stokes
x Tom Nelson	x Bill Mountsier

## **OTHERS PRESENT:**

Heidi Jensen, CAO

#### **Public Input**

There was no public input.

#### General items

• Greg Childs - Yellowstone Trail Association

Greg Childs, who lives on Thiel Road, represents the Yellowstone Trail Association. He stated that the Yellowstone Trail passed through Laurel and is basically Highway 10. Prior to 1926, the roads in the United States were all known as trails. There was the Sunset Trail on the west coast, the Lone Star Trail in Texas, the Lincoln Highway, the Sunset Highway, the Red Trail and the Yellowstone Trail. The Yellowstone Trail began in 1912 in Ipswich, South Dakota with an immediate goal to make a good road to Sioux Falls. It expanded beyond that and the slogan became a good trail from Plymouth Rock to Puget Sound. The trail passed through Laurel, and early guide books talk about a bank on the corner. If one turned left at the bank on the corner, one would cross the railroad track and proceed down to Cody, which was an entrance to Yellowstone Park. Otherwise, one remained on what is Old Highway 10 today to Livingston, which was the access into Yellowstone Park.

Greg stated that the Yellowstone Trail Association has developed a 3-foot square colored plaque with a plastic overcoat. He is seeking permission to plant the plaque in Firemen's Park, by the Chamber of Commerce area so people passing through Laurel can see the sign post that depicts one of the very early trails, which became a highway in 1926. There would be no cost to the city, as he would provide all the materials. He would probably seek help from the city workmen to dig two 4x4 holes in the ground filled with sack Crete with stained redwood posts to hold the plaque. When finished, it would probably be four feet high.

There was discussion regarding maintenance of the plaque and whether or not the plaque would be gifted to the city.

Heidi will talk to the Public Works Director and contact Greg before the end of the week.

### **Executive Review**

• Darryl James, Montana Infrastructure Coalition

Heidi stated that there would be a Skype call with Darryl James, the Executive Director of the Montana Infrastructure Coalition. She suggested that the city needs to join the Montana Infrastructure Coalition, as the city's voice needs to be heard at the legislature. It is a \$5,000 commitment for the city to become a voting member.

Due to technical difficulties, the Skype call did not happen, and the item was delayed until later in the meeting.

 Alicia Stickney and Doug Martin - Natural Resource Damage Program, Montana Department of Justice

Doug Martin stated that he is with the Natural Resource Damage Program, a program under the Department of Justice. Alicia Stickney is also with the program and will give detailed information regarding the settlement for the Exxon pipeline spill.

Doug provided background information about the Natural Resource Damage Program. They have not worked in this part of the state before, as most of their work has been associated with issues between Butte and Missoula and in the Helena area.

The Natural Resource Damage Program was started in 1990, established by Governor Stevens during the time when the lawsuit could have been filed between the State of Montana and Atlantic Richfield Company. The program represents the State of Montana and the natural resource programs or departments within the state, including Fish, Wildlife and Parks, the Department of Environmental Quality, and the Department of Natural Resources and Conservation. They are under the Department of Justice, but they basically answer to the Governor, who is the trustee of the natural resources of Montana, and the Attorney General.

The Natural Resource Damage Program has two basic components. The first component is that they litigate settlements for damages to natural resources. With the release of oil from the pipeline, a hazardous substance went into the environment and harmed the natural resources of the State of Montana to some extent. The Governor or the Attorney General sends them to look at any damages that the release of hazardous substances may have had on the natural resources of the State of Montana. Natural resources include surface water, groundwater, or the terrestrial habitats or the organisms in biota that live and exist within that, including fish, wildlife, and all other critters. When the oil spill or the pipeline ruptured in 2011, there was the initial release. Exxon, the Environmental Protection Agency, the Department of Environmental Quality and several thousand consultants showed up to clean up the oil spill. The Natural Resource Damage Program was not part of the cleanup, but they came in shortly after to assess the damages to the natural resources and the resulting cleanup of the release.

The second component is a restoration component. When the State gets settlement dollars from a damage assessment from the responsible parties, the Natural Resource Damage Program

determines how these dollars are spent. The program is responsible for allocating and spending those dollars on the natural resources that were injured by that release of the hazardous substance. The dollars for the release of an oil spill on the Yellowstone River cannot be spent on a mine waste cleanup adjacent to the river downstream. There has to be a connection between the release and the injured resources.

The program's 12 full-time FTE's work on projects around the State and the program is self-funded by the settlement dollars that are received. A large portion of their work is in the Clark Fork River Basin. To date, the program has recovered for the State of Montana approximately \$250 million that will go back to restoring and replacing the natural resources of the State of Montana. Approximately \$12 million was for the settlement of the Exxon oil spill on the Yellowstone River.

Alicia Stickney, the Project Manager, distributed copies of the ExxonMobil Pipeline Company July 1, 2011 Yellowstone River Oil Spill Restoration Plan Fact Sheet.

Alicia spoke regarding the table in the back of the fact sheet. The State of Montana and the Federal Trustees for the Natural Resources did a damage assessment and identified certain types of injuries that occurred to the natural resources on the river. The plan is in draft form right now and the public comment period is open until Monday, October 31<sup>st</sup>, at 5:00 p.m. The projects they intend to undertake on the Yellowstone River are designed to address the injuries that occurred on the river from the July 1, 2011 oil spill. The categories of natural resources that were injured included the terrestrial/riparian habitat, large woody debris piles that were torn apart when the cleanup was taking place, riverine aquatic habitat, damages to the American white pelican, and limited use of the Yellowstone River during the time of the spill and the cleanup. That was the case in the City of Laurel where the whole park was being used as an operation for the cleanup.

The dollar amounts allocated to the damage categories and resources are lined out in the restoration plan. The amounts are meant to be commensurate with the degree of injury that occurred to those resources. Alicia suggested that the City of Laurel might be most interested in the recreational human use projects, which were allocated \$2,410,000 overall. The project ideas are outlined in the plan. Once the final version of the restoration plan is produced, Doug and Alicia would like to have another conversation with the City of Laurel about the projects.

There was discussion regarding: the need to improve the nesting success for the American white pelican at the Bowdoin National Wildlife Refuge and the Medicine Lake National Wildlife Refuge; the meaning of rip rap, which is an engineering technique to armor something from the sheer stresses of water coming up against it; the fact that the proposed projects have not been finalized yet; and the Natural Resource Damage Program's process of finalizing the projects and the consent decree that is going through the court system at this time and should be finalized early in 2017.

• Darryl James, Montana Infrastructure Coalition Heidi introduced Darryl James, via a conference call. Darryl is an independent consultant in Helena and spent the bulk of the last 25 years of his career working in and around infrastructure development. He has been involved in the legislature for the last six sessions and represented architects and engineers on the infrastructure bill in the last two sessions. He explained the background and need for the Montana Infrastructure Coalition, which was formally organized in May 2016.

The Montana Infrastructure Coalition has about 70 different organizations that range from design architects and engineers through contractors and labor that built the projects, developers that help find the funding, and cities, towns and counties that actually maintain infrastructure. A cross section of folks are engaged in the discussion and the message has been establishing the foundational understanding of the need. This can be looked at in a couple ways. One is the physical need for continuing infrastructure investment, which is based on the age of the facilities. Many of the water and wastewater systems across the state are 70 years old or older and have not received significant upgrades to the systems. Areas that are experiencing growth pressures need to add capacity. The third part of the physical need comes from increasing regulatory requirements for new water quality standards or water discharge requirements. When looking for state or federal matching dollars to assist with upgrades, the new criteria must be met. Smaller communities across the state are not able to come up with their share and meet those increasing regulatory requirements. So between age and capacity and regulatory requirements, those are the core issues that are causing the physical need for infrastructure upgrades or investment.

On the financial side, dwindling budgets for MDT, the state and federal highway systems in Montana, trickle down the money to local governments for what can be done with local streets, county roads and bridges. TSEP would have funded half of the project costs on a water and sewer system 20 to 30 years ago, but that is now 10 or 12 percent of the overall cost of a project with a \$750,000 cap. The burden is still on the local community to define additional grants, loans or levies on the community. Darryl stated that there is a financial burden on the smaller communities across Montana with no significant adjustment in revenue streams to help keep pace with the need.

Darryl recently sat down with 20 to 30 people in Billings to define infrastructure. Answers included everything from roads and bridges to schools to park and recreational facilities to fiber optic cable to senior housing. As the group considered how to get the infrastructure issue under control, they looked

at a hierarchy of needs and what every community across Montana needs to be a healthy community to spur additional public and private investment. The very basic needs are food, water and shelter. The group decided to focus in the 2017 session on funding for roads and bridges and water/sewer type projects. The group is looking at funding that flows through the Department of Transportation or the fuel tax that flows down to local governments for roads and bridges. They are also looking at the revenues that come through the Coal Trust, through the TSEP Program, and through other grants and loans to local governments. The group is looking for long-term sustainable solutions that change the way infrastructure is funded. The group is not looking for one infrastructure bill that takes specific projects, but for a fundamental change in the way the revenues flow and the direction they flow to address some of the critical needs at the local level.

There was a question regarding lobbying points for the 2017 legislature.

Darryl could not be specific about the lobbying points until after the election, but he stated that the Montana Infrastructure Coalition would propose a package with different tax options with the intent of tapping the tourist dollars that come into Montana.

There was a question about the benefits of the \$5,000 voting membership.

Darryl explained that the biggest benefit of a voting member is the ability to actually guide the policy decisions. The next voting member meeting is set for November 14<sup>th</sup> in Bozeman. At that meeting, the group will decide what pieces go into the legislative package and what increment of increase in taxes would be needed. Voting members have a formal vote on establishing the policy, will elect the board for next year, and will decide what the dues will be in the coming years. Voting members will guide the coalition year to year. Darryl stated that what the coalition does in the coming years is largely dependent on how successful it is in this legislative session. Part of the monies will be spent on a public information campaign to make sure the legislature feels confident that the voters understand the problems, the needs and the viable solution. The membership fees will essentially be used for lobbying and education.

Heidi spoke regarding the ASCE 2014 Report Card for Montana's Infrastructure. She stated that Laurel's infrastructure is old and, without some help at the legislature, Laurel will not be able to secure any more funding. If Laurel has a voice on the Coalition, it could help the city in the long term.

Tom asked regarding the requirement for membership on the board and whether officials or interested parties from the City of Laurel could lobby be on the board.

Darryl explained that the only condition for board participation is to represent a municipal government or a non-profit. For-profit members, such as an engineering company, an architect or any private sector for-profit company, are prohibited from serving on the board. Any not-for-profit association or municipal government can serve on the board.

Tom thanked Darryl for his presentation and stated that it is important for a lot of communities and Laurel to have a voice and be able to utilize the group to take care of some issues that desperately need attention.

• Resolution - Montana Infrastructure Coalition

Heidi recommended that the council approve the full \$5,000 membership fee, as it is important for the City of Laurel to have a voice and the city has a lot of infrastructure needs.

There was discussion regarding direct or indirect effects with the water intake project, the ways the city hopes to move forward to have bills sponsored at the 2017 legislature, the 2014 Report Card for Montana's Infrastructure, and the lack of funds for a small caps project in 2017.

 Resolution - Amendment to Task Order No. 35 of Owner-Engineer Agreement with Great West Engineering

Heidi explained that the TIF District has been working to make Southeast 4<sup>th</sup> Street and South Washington Avenue complete streets and desirable places for commercial growth. The next TIFD project is widening SE 4<sup>th</sup> Street at the 90 degree corner by Walmart. Going south on Bernhardt Road and turning the corner to go west on SE 4<sup>th</sup> Street, the road is narrower at the corner and then widens and jogs just past South Washington, making drivers move to the right to stay in their lane. This alignment, for which the city has the right-of-way, would make the road wide enough for cars to stay in their lane and would complete the street. This project would also include an owner driven SID on South Washington. South Washington would get a mill and overlay, the crosswalks would be installed and SE 4<sup>th</sup> Street would be widened. Pedestrian traffic will be forced to the south side of the road because that is where the businesses are currently. Funding for this project will be totally out of the TIF District, not out of the Street Maintenance Fund. The amendment is before the council now so the engineers can finish the design and go to bid in early spring.

• Resolution - Commit matching funds for Big Sky Trust Fund Grant Heidi explained that there have been five years of discussion about what to do with the restricted funds for Riverside Park. Great West Engineering proposed the Big Sky Trust Fund Grant. It is a matching grant, so the city will contribute \$25,000 and Big Sky Trust Fund will contribute \$27,000 to create a master plan for Riverside Park.

There was discussion regarding possible projects, including the bathrooms and removing the asbestos concrete posts, how the master plan would relate to the proposal by the Natural Resource Damage Program, and the possibility of asking for assistance with implementation.

#### Council Issues:

o Grass issues on Pennsylvania Avenue (Bill Mountsier)

Bill stated that he brought this issue up two months ago. The subcontractor did a poor job in replanting that grass, as he has a lot of high and low spots and a lot of bare spots. He has not actually walked the street, but he thinks several other homeowners do, too. He talked to Kurt about it but has not heard anything for two weeks.

Heidi stated that she talked to Nick Wilson today, who was the project owner on that project. Nick told her to get a list of the homes and what needs to be done. Nick will take care of it in the spring, since the sod farm has been shut down and it is too late to seed. Heidi asked Bill to give the list to her.

Update on Tom Nelson's visit to the Governor's Office

Tom distributed a handout that he took to last Monday's meeting with Heidi, Mayor Mace, Representative Vince Ricci, Representative Kelly McCarthy and Sam Painter. The handout included eight undeniable truths of the new Laurel Water Intake Project, an email from Representative Kelly McCarthy to General Anthony Quinn of the Montana Department of Military Affairs which oversees the Department of Emergency Services in Helena. He was asking Tim Thennis, the Bureau Chief of DES, why DES was paying for every FEMA approved project worksheet for Laurel's damage from the flooding, including the 25 percent state match,

which is required under the FEMA State Agreement and under the State's Public Assistance Policy, and not paying for the 25 percent match on the relocation of the water intake, which is another project worksheet that is FEMA approved under the same federal disaster declaration. Representative McCarthy is not getting any answers. Mr. Thennis seemed to think that had something to do with Dan Villa, the Governor's Budget Director. Somehow there was some impediment through his office that was delaying or preventing that payment and he was under the assumption that there was some sort of statutory obligation that was preventing him from paying that. The email says "the Budget Director citing something to the effect that his statutory authority to obligate the funds had expired." Tom stated that they are not going to give the statute to which they referred because there is not one.

Tom explained that other options have been considered, including suing the state. The city attorney has stated that once the city enters into a lawsuit with the State of Montana, discussion would end, and the city could be in litigation for several years. Tom plans to continue to apply pressure through the state representatives to try to get answers.

There was discussion regarding the FEMA money, the first \$1 million draw that was submitted last Friday, the need for a quick turnaround, the issue with the city needing to use reserves, the possibility of contacting someone higher in authority, and Tom's confidence that FEMA is standing behind the City of Laurel with the approved project worksheets.

### Update on 2011 Yellowstone River flooding event

Heidi distributed copies of the updated schedule for the new water intake project so the council could see how much work has been done to date. The project is still on schedule for April 2017. The weather has been incredibly favorable for this project. The contractor is putting in some sheet piling to go up against the sandbags to create a tighter water seal so they will not need to pump as much water out in order to lay the concrete in the hole for the intake. The pipe for the intake is there, but they need the ground to freeze a little harder to put in the three miles of pipe.

Heidi explained some issues with acquiring the deed for the property where the control building is located. She stated that the Howreys owe the city \$34,400, including \$17,000 for the original land purchase, \$15,000 for the survey and the \$2,400 difference in the appraisal amount for Tytus Harkins and the Howreys. Sam worked with the Harkins' attorney to get the deed done with a specific statement that the city understands that Howreys will not sign a lien release. The site title opinion should be done soon so the city can close on the SRF loan.

#### Other items

Heidi stated that city staff did a phenomenal job last night with the accident that occurred in the Yellowstone River. The police department contained the incident. Once dispatch called, it was 15 minutes from the time that our Public Works Director was called to the time that he and the Maintenance Superintendent had the boat in the river. Between the fire department and the public works department, they were able to find the body of the woman that drowned, which was a big feat and very sad position for city staff.

Review of draft council agenda for November 1, 2016 There was no discussion.

# Attendance at the November 1, 2016 council meeting

All council members present will attend.

## **Announcements**

Doug thanked Tom for leading tonight's council workshop.

Scot stated that it is nice to be back.

Bill asked regarding maintenance on the plaque that the Yellowstone Trail Association proposed to place in Firemen's Park.

Heidi will ask Greg Childs what he wants to do. If he wants to gift the plaque to the city, it will have to come to the council to accept the gift for whatever dollar amount it is. Heidi will also ask him about maintenance of the plaque, as the city does not put anything on city land that it does not own.

Tom stated that Plexiglas is not very expensive, so he does not think the maintenance would be a great concern.

Bruce mentioned that there have been exceptions, such as the lights on the ballfield, which the city does not own but allowed to be put in the ground. He stated that the lines need to be clearly drawn as to ownership, maintenance and liability.

The council workshop adjourned at 8:10 p.m.

Respectfully submitted,

Cindy aller

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.