

# MINUTES OF THE CITY COUNCIL OF LAUREL

May 2, 2017

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 May 2, 2017.

COUNCIL MEMBERS PRESENT:

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

COUNCIL MEMBERS ABSENT:

Emelie Eaton

OTHER STAFF PRESENT:

Noel Eaton, City Planner

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 Dickerson to approve the minutes of the regular meeting of April 18, 2017, as presented, seconded by Council Member McGee. There was no public comment or council discussion. A vote was taken on the motion. All seven council members present voted aye. Motion carried 7-0.

CORRESPONDENCE.

Montana Department of Transportation: Letter of April 19, 2017, regarding 2017-2021 Draft Statewide Transportation Improvement Program.

COUNCIL DISCLOSURE OF EX PARTE COMMUNICATIONS.

PUBLIC HEARINGS:

- **Preliminary Plan and Annexation of Regal Community Park**

Mayor Mace stated that this is the time and place set for the public hearing on the Preliminary Plan and Annexation of Regal Community Park.

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

City Planner Noel Eaton spoke regarding the annexation and Preliminary Plan of the Regal Community Park. The applicant is Regal Land Development and Dan Wells. The parcel is 7.85 acres and is located south of East Maryland Lane, north of East Eighth Street and east of Date Avenue. The proposed plan is a 55-site Development for Rent or Lease for manufactured homes. The property is currently surrounded on three sides by city property and is zoned for Residential Manufactured Homes.

At the Planning Board's public hearing on April 6<sup>th</sup>, there was concern about the traffic on East Maryland and how to mitigate it. The applicant will sign a waiver of right to protest an SID. The development did not warrant a traffic study to be done, as the required threshold was for 100 mobile home units when the application was submitted. The city's subdivision regulations have since been updated, so major subdivisions will have to complete a traffic study.

There are two staff reports, one for the annexation and one for the preliminary plan. Noel stated the three conditions of approval for the annexation.

1. In the event public improvements have not been completed at the time a building permit is applied for, the applicant shall provide a development agreement.

*MAN*

2. A Subdivision Improvements Agreement shall be executed with Final Plan approval.
3. A waiver of right to protest shall be execute and filed with the Clerk and Recorder at the time of annexation approval.

Noel stated that the staff report for the preliminary plan is more in depth. The staff findings did not warrant denial of the subdivision in any way.

Noel read the fourteen conditions of approval for the preliminary plan.

1. The property shall be annexed into the City of Laurel.
2. There shall be Right-of-Way of 27 feet surveyed and filed under MCA exemption 76-3-201(h) for the remainder ROW dedication for Date Avenue prior to final plan.
3. There shall be Right-of-Way of 40 feet surveyed and filed under MCA exemption 76-3-201(h) for the remainder ROW dedication for East Maryland Lane prior to final plan.
4. All public improvements shall be built to Montana Public Works Standards and to the specifications made in the Subdivision Improvements Agreement provided with the application for preliminary plan.
5. Water and sewer connections must be approved by the Public Works Director prior to final plan.
6. A storm water management plan must be approved by MDEQ before final plan.
7. To minimize effects on local services, utility easements shall be provided on the final plan.
8. To minimize the effects on local services, a centralized mailbox unit shall be provided as coordinated by the U.S. Postal Service along the north side of East 8<sup>th</sup> Street. There shall also be a concrete pad.
9. To minimize the effects on local services, as requested from the Laurel Fire Department, no parking signs shall be provided by the developer and installed in front of all fire hydrants.
10. Minor changes may be made in the SIA and final documents, as requested by the Planning, Legal or Public Works Department to clarify the documents and bring them into the standard acceptable format.
11. To minimize the effects on the natural environment, a weed management plan and property inspection shall be approved by the County Weed Department, prior to final plan approval.
12. Cash in lieu of parkland shall be received with final plan approval.
13. If City of Laurel sold waste services are used, a plan must be approved by the Public Works Director.
14. The final plan shall comply with all requirements of the Laurel-Yellowstone City-County Planning Area Subdivision Regulations, rules, policies, and resolutions of the City of Laurel and the law and Administrative Rules of the State of Montana.

Mayor Mace asked if the applicant wanted to speak.

Scott Worthington, with In Site Engineering, 4118 Woodcreek Drive in Billings, spoke to the council about the annexation and preliminary plan for Regal Community Park. With respect to the annexation, he stated that this is a great infill project. It is surrounded by land already annexed into the city. It is consistent with Laurel's Growth Policy. It is consistent with the existing zoning for the parcels. Scott worked extensively with the city planner and the public works director and established that the city has the capacity to provide water and sewer services, based on the demands of this project. A letter from Great West Engineering talks about the sewer system being able to adequately handle the sewer demands. It is also based on hydraulic calculations for the water system demands. The existing system pressures and flows can provide what is needed for the required fire flows, etc. Without this parcel being annexed into the city, the essential services of water and sewer are not available to the parcel. They have carefully planned the development and established that this is going to be able to be served by the city from an engineering standpoint.

As far as the preliminary plan is concerned, Scott stated that it is a good infill project. It is consistent in use with the adjoining Residential Manufactured Housing (RMH) neighborhoods. It is compliant with the subdivision regulations and no variance is necessary or requested to complete the project. From an engineering perspective, this is a great project that can go forward successfully. Scott asked the council to approve the annexation and preliminary plan so Regal Land Development can move forward in the development of the final plans for the project.

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 if there were any proponents.

Stuart Kirkpatrick, 490 North 31<sup>st</sup> Street, Suite 500, Billings represented Dan Wells and Regal Land Development. Stuart stated that he spoke with Sam Painter yesterday about this issue. He understands that there were a couple of concerns in the past. Mr. Painter indicated that he did not have any objection or problems legally with this process and that he had not heard anything from the city planner that indicated that there was a problem with the process. Stuart stated that it looks to him like it is legally sufficient. He knows that the conditions of approval in both planning reports are acceptable to Dan Wells and that the legal requirements for approval have been met.

Dan Wells resides at 1812 66<sup>th</sup> Street West in Billings. He mentioned that Regal Land Development was before the council last October and he appreciates the council's consideration. He seconded Scott's statement as far as this being a good infill area for improving a part of the city that is currently unimproved. The right-of-way provided for Date Avenue would help clean up that street. The improvements to bring water and sewer to the subdivision will also help the city. Extending the curb and the paving around the project will help mitigate some of the traffic issues in the area and clean up that part of town. Dan stated that no variances were requested this time. Last time, they had a group of six residents that were anxious to move in. He is confident with the supply and demand that they will be able to build a nice product, fill it up, add to the revenue base of the City of Laurel and create an environment that everyone will be proud to have as part of the community. He looks forward to using the services the city provides, even though he has some options as far as trash and such. It is a private park, so they will maintain their own road areas, but as much as they can be a part of the city community, he would like to do that. Dan offered to answer questions.

Mayor Mace asked if there were any questions for the applicant.

Council Member Dickerson questioned who will monitor this if it goes through.

Dan explained that there will be an onsite manager. In his other semi-private communities, Dan and his sons take care of them. He stated that the buck stops with him.

Council Member Dickerson asked what happens when people decide they cannot afford to water their lawns. He stated that there are other manufactured home areas in the city that need to be addressed and he is concerned. He is concerned with people that are going to be living in the park, as well as the people in the surrounding area.

Dan explained that, as a private park, it will be maintained by his group, his sons and himself, who are the managers. There will not be individual people that chose to water or mow their lawns or not. That will all be part of the fee that they paid to place their home there. The sites are big enough that they can accommodate double-wide or single-wide homes. They plan to have quite a bit more than the normal parking so the area is not cluttered.

Council Member Dickerson asked regarding outbuildings and whether there would be regulations to match the exterior design, to allow metal buildings or require stick built buildings, and if they would go with the aesthetics of the park.

Dan explained that the covenants were started but not completed after the request was denied last October. The covenants will address outbuildings, maintenance, unruliness, etc. They have the control to state the rules that the residents live by in their community. If they are not willing to, they will go somewhere else.

Mayor Mace stated that questions should not be allowed during the public hearing but should wait until scheduled matters.

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

Mayor Mace asked if there were any opponents.

Patricia Del Pizzo, 918 Date Avenue, has heard a lot about the planning and engineering and architectural elements, sewers, water, and electricity. She is concerned about the human factor since she lives there on Date. She is concerned about the conditions that already exist for the families in the area for children. There are no sidewalks in the area, and the schools are already overpopulated. She is concerned about the safety. There are children walking up and down Maryland constantly. She hears that the roads and the park will be maintained, but all of those people will be driving in and out of the park. They will be using the facilities in Laurel. She is concerned about the age of the

homes and about the potential for rental property there. There is just over seven acres for 55-home lots, including driveways and yards. There was mention about outbuildings. She has concerns about the space and about the load on the water system. She has heard about the vision there was for Alder Ridge and is pretty sure everyone is aware of Alder Ridge Mobile Home Park. Some of it is well-maintained, but that is not the majority. She has heard that the children are bussed to school because of lack of sidewalks and the lack of interest to install sidewalks. There is already a shortage of bus drivers and she does not know about the bus situation. She would like to hear more answers for these areas instead of that things will be addressed.

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

Mayor Mace asked the staff or the applicant to respond to any relevant questions or issues that require an explanation or response.

Noel stated that the applicant is proposing sidewalks on the south side of Maryland and the north side of East 8<sup>th</sup> Street. East 8<sup>th</sup> Street has always been a concern regarding sidewalks. Creating an SID is the way to address sidewalks for an older development. East 8<sup>th</sup> Street is half County and half city, which is an issue. The school system has said that they will not bus this development, so that issue has been addressed. Date Avenue is currently a gravel road and it would be a safety concern to pave half of the road, so the applicant is proposing gravel on the road. The applicant will sign a waiver-of-right to protest an SID to pave Date Avenue. As far as the water and sewer capacity, the public works director has reviewed all of this. The city's new intake is doing very well and has the capacity required for this project. The city is moving forward with sewer plant updates.

Mayor Mace closed the public hearing.

- **Annexation and Zone Change request for 202 8<sup>th</sup> Avenue**

Mayor Mace stated that this is the time and place set for the public hearing on the annexation and zone change request for 202 8<sup>th</sup> Avenue.

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

Noel Eaton spoke regarding the annexation and zone change for 202 Eighth Avenue. The applicant, Mark Allen, has submitted the petition for annexation. The property is located on Eighth Avenue between West 2<sup>nd</sup> and West 3<sup>rd</sup> Streets. This parcel is the last remaining parcel on Eighth Avenue to be annexed into the city. If the annexation is approved, there will be a continuous city line on both sides of Eighth Avenue. The property is approximately 2.35 acres and is currently vacant with a vacant single-family home in the southeast corner. The proposed use is approximately 18 townhome duplex-style homes created by a master site plan and a declaration of unit ownership. The adjacent zoning to the north is Residential 6000 and is in the city limits; to the south is Residential Multi-Family and is in the city limits; to the east is Residential 6000 and is in the city limits; and to the west is Residential Tracts, which is in the County. The parcel is currently zoned Residential Tracts. According to the city's annexation policy, an annexed property must be rezoned at a minimum density of R-7500. The applicant is requesting a zoning designation of Residential Multi-Family, which is denser than R-7500. It is already zoned Residential Multi-Family to the south, so it would not be spot zoning in this case.

The Planning Board held a public hearing on April 6<sup>th</sup> and unanimously (5-0 vote) recommended conditional approval. The annexation policy and requirements are stated in the staff report.

Noel read the four conditions of approval:

1. In the event the public improvements have not been completed at the time a building permit is applied for, the applicant shall provide a development agreement.
2. If the public improvements are not constructed at the time of annexation, the property owner shall provide the city a bond or letter of credit that equals 125 percent of the estimated engineering costs for the construction of improvements. If the property owner fails to construct the improvements or to obtain the agreed upon engineering, the city shall utilize the bond or letter of credit to pay for the construction, including engineering; In accordance with GASB-34, the Developer or Landowner shall provide the city the total cost and/or value of the improvements including, but not limited to, parks, sidewalks, curb and gutter, lift stations, and sewer and water lines, that are conveyed to the city.



3. A waiver of right to protest shall be executed and filed with the Clerk and Recorder at the time of annexation approval.
4. An exempt lot line adjustment survey must be submitted to the Planning Department to ensure ROW dedication on West 3<sup>rd</sup> Street, 8<sup>th</sup> Avenue and West 2<sup>nd</sup> Street.

Tom Llewellyn, 1925 Grand Avenue, Suite 124, Billings, is a real estate broker in Billings and represents Mark Allen. He mentioned that Mark has another project in Laurel to the east of the country club. This project will be 18 townhomes, duplex-style, in a pattern of threes. Construction will probably start off of the north side and go south. The property has never been subdivided, so a lot line adjustment will be done to get the street vacations proper on 2<sup>nd</sup> and 3<sup>rd</sup> Streets. The water and sewer is in Eighth Avenue and again in 3<sup>rd</sup> Street, so they have options on how to take it into the property itself. It will be under a Declaration of Townhome Ownership, which is an HOA. It will have a master water and sewer system with only one hookup. Mark Allen will be responsible for everything internally. All the roads will be paved and will be privately owned and operated by the HOA. Tom stated that a site plan with engineering concepts will be submitted to the Planning Department and then to the council for approval of the master site plan. The lot line adjustment needs to be completed so the city has full right-of-way on both 2<sup>nd</sup> and 3<sup>rd</sup> Streets. There is also a bump out where the house is located. Since the house was built in 1900, nobody wanted to mess with it, but it will get straightened on Eighth Avenue. He does not know the inside design of the units yet, but he and Mark have discussed the need for a flat unit with no basement for handicapped and/or older people. Tom offered to answer any questions.

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 three times if there were any opponents. There were none.

Mayor Mace closed the public hearing.

- **Special Review of LMC 17.20.020 for Town and Country Supply**

Mayor Mace stated that this is the time and place set for the public hearing on the Special Review of LMC 17.20.020 for Town and Country Supply.

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

Noel Eaton explained that the special review for Town and Country Supply is for the sale of alcohol at an existing restaurant. The property is located at 817 West Main Street. The parcel size is approximately 7,500 square feet and is currently occupied by a gas station, C-Store and casino. The proposed use would be the casino with the sale of alcohol. The existing zoning is Highway Commercial. The surrounding zoning is Residential Multi-Family to the north, Highway Commercial (Ace Electric) to the south, Central Business District, which is residential, to the east, and Highway Commercial Residential to the west.

The sale of alcohol will occur at the casino. LMC 17.20.020 states that "cocktail lounges, restaurants, bars and taverns" are only allowable by Special Review in properties zoned Highway Commercial.

LMC 17.48.090 states that "No building, structure or premises shall be used for retail alcoholic beverage sales unless:

1. The lot or parcel of land so to be used has a street frontage of at least 100 feet and an average depth of at least 100 feet.
2. A distance of 600 feet between property lines measured in a straight line from any building that is primarily used as a church or school, or from a public park that contains a children's playground or playfield.

This property has a street frontage of at least 100 feet of street frontage and is not within 600 feet of a school, church or a public park, playground or play field. At the beginning, there was a question about the playfield at Wood's Powr-Grip, but that is a private playfield and would not fall within the public requirement from the State. The advertising requirements of LMC 17.68.030 C-E have been met.

The Planning Board held a public hearing on April 6<sup>th</sup> and voted unanimously (5-0) to conditionally recommend approval. One condition is that the property shall be kept free of noxious weeds.

Mayor Mace asked if the applicant was available.

Wes Burley, 6309 Bear Paw Drive South, Billings, stated that Town and Country has worked hard to clean up that area. They put a nice convenience store there and want to operate the casino there, too. In order to do that, they need to be able to serve the beer and wines that the license will allow. Wes explained that the license is not a new license to Laurel. It basically moved about 3.5 blocks west from where it was originally located, so they are not adding a new location to serve alcohol.

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 three times if there were any opponents. There were none.

Mayor Mace closed the public hearing.

**CONSENT ITEMS:**

- **Claims for the month of April 2017 in the amount of \$2,227,644.85.**  
A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.
- **Approval of Payroll Register for PPE 04/23/2017 totaling \$179,925.38.**
- **Receiving the Committee/Board/Commission Reports into the Record.**
  - Budget/Finance Committee minutes of April 18, 2017 were presented.
  - City-County Planning Board minutes of April 6, 2017 were presented.
  - Council Workshop minutes of April 25, 2017 were presented.
  - Laurel Urban Renewal Agency minutes of March 20, 2017.
  - Arbor Day Committee minutes of March 23, 2017 were presented.
  - Arbor Day Committee minutes of April 13, 2017 were presented.
  - Arbor Day Committee minutes of April 27, 2017 were presented.

The mayor asked if there was any separation of consent items. There was none.

Motion by Council Member McGee 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 seven council members present voted aye. Motion carried 7-0.

**CEREMONIAL CALENDAR:** None.

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

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

**SCHEDULED MATTERS:**

- **Confirmation of Appointments.**
- **Laurel Rod & Gun Club's request to hold the annual membership party and trap shoot event on May 13, 2017.**



Motion by Council Member McGee to approve the Laurel Rod & Gun Club's request to hold an annual membership party and trap shoot event on May 13, 2017, according to lease protocols, seconded by Council Member Nelson. There was no public comment or council discussion. A vote was taken on the motion. All seven council members present voted aye. Motion carried 7-0.

- **Resolution No. R17-12: A resolution of the City Council authorizing the Mayor to issue a formal written request to the Montana Department of Transportation requesting use of Urban Funds for two identified high priority projects within the City of Laurel.**

Motion by Council Member Poehls to approve Resolution No. R17-12, seconded by Council Member Mountsier. There was no public comment or council discussion. A vote was taken on the motion. Council Members Poehls, Herr, Stokes, Mountsier, Dickerson and McGee voted aye. Council Member Nelson voted nay. Motion carried 6-1.

- **Resolution No. R17-13: A Resolution approving the Preliminary Plan and Annexation of Regal Community Park, legally described as Nutting Bros 2<sup>nd</sup> filing, S10, T02S, R24 E. Lots 7 and 8, an addition to the City of Laurel, Montana.**

Motion by Council Member Nelson to approve Resolution No. R17-13, seconded by Council Member McGee. There was no public comment.

Council Member Nelson stated that he is one of two council members that live in this ward. He knows that the city is in need of not only housing, but in need of revenue that comes from housing and tax dollars and single-family homes are slow to bring the tax revenues because of their size and cost. He thinks this project would see more benefit than not, which is important to him since it is a block from where he lives.

Council Member Poehls thanked the developer for taking the council's advice and reworking the plan so no variances are required.

Council Member Dickerson had reservations before and still has some reservations. From the way the project was presented, it looks like it will be approached in a different manner than previous manufactured housing developments, so he is looking forward to a change in this venue.

Council Member McGee stated that this kind of housing is seriously needed in almost all communities, especially in Laurel. He is confused about whether or not the lots will be individually owned because of the way the Declaration of Restrictions is written. Sometimes it implies that there are individual owners and sometimes it implies that the lots will all be rented. He would like clarification on that because the council needs to know what it is going to approve or not approve. The fact that somebody is even willing to develop this is amazing to him, and it is great infill for the community.

Noel stated that this is a Development for Rent or Lease. Regal Land Development is the only owner of Lots 7 and 8. None of it will be subdivided and there will not be individual owners. Dan Wells and Regal Land Development will be the only owner of Lots 7 and 8 and they will rent or lease within the private development. Noel will ask Regal Land Development to clarify the documents before the final plan is submitted.

Council Member McGee asked if the applicable things about the maintenance, repair, weed control, etc. in the Declarations of the Covenants for Regal Park, would be enforced.

Noel stated that the city cannot enforce those.

Council Member McGee understood but questioned if they were part of the package deal.

Noel explained that the city will do its best to maintain that before the application of building permits and as the years go on.

Council Member McGee pointed out that all of the objections have been addressed and answers to the questions are contained in the documents.

A vote was taken on the motion. Council Members Poehls, Herr, Nelson, Dickerson, and McGee voted aye. Council Members Stokes and Mountsier voted nay. Motion carried 5-2.

- **Resolution No. R17-14: Resolution of annexation and approval of zone change for the property located at 202 8<sup>th</sup> Avenue, City of Laurel, Yellowstone County, Montana.**

Motion by Council Member Herr to approve Resolution No. R17-14, seconded by Council Member McGee. There was no public comment or council discussion. A vote was taken on the motion. All seven council members present voted aye. Motion carried 7-0.

- **Resolution No. R17-15: A resolution of the City Council approving an application for Special Review submitted on behalf of Town and Country Supply.**

Motion by Council Member Stokes to approve Resolution No. R17-15, seconded by Council Member Mountsier. There was no public comment or council discussion. A vote was taken on the motion. All seven council members present voted aye. Motion carried 7-0.

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

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

**COUNCIL DISCUSSION:**

Council Member Herr is glad to see that the city is finally doing some movement in the direction of growth.

Council Member Stokes stated that the Park Board will meet on Thursday, May 4<sup>th</sup>, at 5:30 p.m.

Council Member Dickerson stated that today's Arbor Day Celebration went well at Murray Park. He understands that a large amount of trees were planted throughout the city for Arbor Day. Council Member Dickerson is also excited to see growth in the city and the involvement to beautify the city.

**UNSCHEDULED MATTERS:** None.

**ADJOURNMENT:**

Motion by Council Member Mountsier 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 seven council members present voted aye. Motion carried 7-0.

There being no further business to come before the council at this time, the meeting was adjourned at 7:22 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 16<sup>th</sup> day of May, 2017.

Mark A. Mace  
Mark A. Mace, Mayor

Attest:

Bethany Keeler  
Bethany Keeler, Clerk/Treasurer