

1. The variance shall only be allowed for the applicant and at this location.
2. The variance shall only be allowed for dispensary or dispensaries.
3. The applicant shall apply for a City of Laurel business license.

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.

Jason Smith, 4515 Palisades Park in Billings, stated this was his third or fourth appearance before the council. He first attended meetings in 2010 or 2011 asking the City Council for approval to help the patients. He is asking seven years later to please consider this variance. He knows they have met the requirements and he and the patients would appreciate approval of this variance.

Mayor Mace asked if there were any other proponents.

Richard Abromeit, 2705 Sage Springs Circle, Billings, is the applicant who represents Montana Advanced Caregivers. Mr. Abromeit reminded the council that this is a request for a variance, not a zoning change. It will only be for him at that location for that purpose. He stated that they have met all seven of the criteria and received 5-2 approval from the Planning Board. He believes there is available parking at the location. Mr. Abromeit and Montana Advanced Caregivers would welcome becoming a part of Laurel's business community.

Mayor Mace asked if there were any other proponents.

Steve Solberg, 3513 Prestwick Drive in Billings, is one of the current property owners and a representative of Canyon Creek Stations. He gave the council a little background. When first approached with an offer to buy this property about four months ago, he and his partners did a little research. They went to the police department and found out the law. Police Chief Musson said it is a legal business according to Montana law, and so they proceeded. They were invited to take a tour of the facility in Billings, and they were very impressed. It is clean, it is run professionally, and it is very compliant. From their perspective, they felt this business was very compatible. If it was a drug store or a food store, it would be a no-brainer, but because of the stigma of the product they are selling, it makes it harder to sell. It is their opinion that they would be very comfortable, and the business would be very compatible in their complex. It is a legitimate business from their perspective. If the applicant moved across the street 50-60 feet, there would not be any issue because that is Light Industrial. He understands the zoning issues. He thinks the condominium association would have more parking and traffic regulations than the city would. He stated again that they think it is a legitimate business, and it is worth having them as a neighbor and a contributor to their complex.

Mayor Mace asked if there were any opponents.

Candy Onoszko, 1602 East Eighth Street, is a concerned mother and grandmother. She has seen what this has done in other states. She cites Colorado as a great example, and she does not think we need it here. Ms. Onoszko voted against legal marijuana when it was presented before the voters. She thinks it is a poor business to have in a small community. She says the states all around Colorado are having issues with crime. Ms. Onoszko does not see why it is necessary if Billings already has shops. If people need medical marijuana, they should get a prescription from their doctor and go to Walmart and get it filled. She does not think we need this type of business here.

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

Mayor Mace closed the public hearing.

CONSENT ITEMS:

- **Claims for the month of May 2017 in the amount of \$620,858.61.**
A complete listing of the claims and their amounts is on file in the Clerk-Treasurer's Office.
- **Approval of Payroll Register for PPE 05/21/2017 totaling \$170,956.61.**
- **Receiving the Committee/Board/Commission Reports into the Record.**



- Budget/Finance Committee minutes of May 16, 2017 were presented.
- Park Board minutes of May 4, 2017 were presented.
- City-County Planning Board minutes of May 4, 2017 were presented.
- Council Workshop minutes of May 30, 2017 were presented.
- Laurel Urban Renewal Agency minutes of April 17, 2017 were presented.
- Tree Board minutes of May 18, 2017 were presented.

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

Motion by Council Member Eaton to approve the consent items as presented, 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.

CEREMONIAL CALENDAR: None.

REPORTS OF BOARDS AND COMMISSIONS: None.

AUDIENCE PARTICIPATION (THREE-MINUTE LIMIT): None.

SCHEDULED MATTERS:

- **Confirmation of Appointments.**
- **Resolution No. R17-19: A resolution authorizing the Mayor to sign an Engagement Letter with Dorsey & Whitney, LLP as Bond Counsel for Special Improvement District No. 118.**

Motion by Council Member Poehls to approve Resolution No. R17-19, 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.

- **Resolution No. R17-20: Resolution relating to Special Improvement District No. 118; creating the district for the purpose of undertaking certain local improvements and financing the costs thereof and incidental thereto through the issuance of special improvement district bonds secured by a district reserve account and the city's special improvement district revolving fund; and establishing compliance with reimbursement bond regulations under the Internal Revenue Code.**

Mayor Mace announced that Resolution No. R17-20 has been delayed. He asked City Planner, Noel Eaton to provide more information.

Noel stated that the process of creating Special Improvement District No. 118 is in progress. Dorsey & Whitney started with the process of creating the district through a signature petition, which would remove the protest period, but would require 100% of the lot owners to sign the petition. Since a few signatures are currently missing, it may be necessary to go through the protest process. SID No. 118 will be on the agenda for the next workshop and council meeting.

- **Resolution No. R17-21: A resolution accepting the bid from CMG Construction, LLC and authorizing the Mayor to sign all related documents for the South Washington Avenue and SE 4th Street Project, City of Laurel, Montana.**

Motion by Council Member Dickerson to approve Resolution No. R17-21, 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.

- **Resolution No. R17-22: A resolution of the City Council granting a variance from the City's zoning ordinance to allow a medical marijuana dispensary business at 204 South**



Washington Avenue, Unit A-1, a property currently zoned Highway Commercial under the Laurel Municipal Code.

Motion by Council Member Herr to approve Resolution No. R17-22, seconded by Council Member Eaton. There was no public comment.

Council Member McGee stated he is never a fan of variances because they always seem to incorporate the necessity to not only take into consideration the variance as it stands, but also what future variances will come along with them. He understands our municipal code has a criteria for variances because sometimes they are a necessity. His concern is two-fold. He is not convinced that the parking issue has been resolved, and he is concerned that the City-County Planning Board and the City Council do not entirely understand the verbiage in the Laurel Municipal Code regarding variances. He does not remain 100% convinced that this variance is necessarily a good idea, but he does not remain convinced that it is necessarily a bad idea for our citizens either. It is a very, very challenging thing because this particular variance request revolves around a hot button issue for so many people, and that can so easily convolute the subject. His concern is that they as a city council are constantly granting variances and he wonders why they are not getting our zoning down so that variances are not that big of a necessity.

Council Member Nelson found Council Member McGee's points similar to many of his questions. He stated that this council's job is not just to look at requests that are before the body today, but it is the council's responsibility to consider how it may tie the hands of future bodies. Most importantly, he does not think there has been enough discussion. Parking issues have not been adequately addressed, and he thinks it would be wrong to make a variance decision without scrutinizing some of these questions a little more.

Council Member Poehls finds it difficult to approve a variance for something that is illegal according to federal law. It is legal within the state of Montana, but it is not legal under federal law. It is a hot button issue. He thinks the marijuana industry as a whole has actually approached it wrongly, and they need to go through the process that makes a drug legal.

Council Member Eaton thinks that the question is a zoning question, not related to the underlying business. She states that right now the issue is whether or not to allow someone to be zoned Light Industrial or move across the street 60 feet to what is zoned Light Industrial.

Council Member Poehls said the problem that he has with Council Member Eaton's statement is related to the wording of the variance itself. It states the variance is approved only for this applicant, and this applicant sells medical marijuana. Thus, the council would be approving what the applicant does. We know who the applicant is, so we have to take that into consideration. It is a variance issue, but it is for this specific person.

Council Member Dickerson said there is a business like this 15 miles down the road that has been approved by the Billings City Council. He stated the number of people in Laurel that are required to use this type of medication to ease pain and find comfort is unknown, but he finds it hard to make people drive to get something that we have the possibility of also being able to offer them here. He thinks the council owes it to the citizens to take into consideration that some of them cannot drive that distance to find such means of comfort. He says it has been proven to be helpful in a lot of cases.

Council Member McGee thinks Council Member Dickerson's points are valid, but a few things may have been misunderstood. He does not believe the Billings City Council had to approve a variance for Montana Advanced Caregivers, because it is located in an area zoned for that type of business. The variance is the issue, but the issue for this council is what we are doing with the future. He advised the council to think seriously about all variances. To say it is this one time and this one place is not exactly true, because we do not know about future variance requests. If it were just one thing for one place and guaranteed forever, he would not have an issue with it, but he does not believe that it is. He would like to see zoning rules and regulations in place for appropriate businesses that would not require variances to come before the council.

Council Member Dickerson asked if the council could be asked to change the variance back to Highway Commercial if the variance is granted and the business moves in, but later decides to close.



Noel Eaton responded that it is a variance for an allowable use only. It is not going to change the color of the map. It is not going to make it Light Industrial zoning in Unit A. It is just going to allow a medical marijuana dispensary in Highway Commercial zoning in Unit A-1.

Council Member Dickerson asked if that business would stay under the variance if the applicant moves out.

Noel Eaton answered it is only for the applicant, Richard Abromeit, and Unit A-1. If Richard leaves, it is gone. If he moves over to Unit B-3, it is gone.

Council Member Dickerson asked if it stays Highway Commercial.

Noel Eaton answered that, it still stays Highway Commercial. If a business for Light Industrial wanted to come in there, it would have to apply for a variance as well. Noel noted that she has not done an allowable use variance since she has worked for the City of Laurel. Other communities do not allow variances for allowable uses. This is the only avenue she has for applicants that are not complying with the code to try to comply with the code.

A vote was taken on the motion. Council members Eaton and Dickerson voted aye. Council members Poehls, Herr, Mountsier, McGee, and Nelson voted no. Motion failed 2-5.

Richard Abromeit asked about the appeals process.

Council Member McGee said that is out of order, as there is no public comment at this time.

- **Resolution No. R17-23: A resolution authorizing a contract with Everbridge Nixle for the provision of the City's Reverse 911 and related services.**

Motion by Council Member Mountsier to approve Resolution No. R17-23, seconded by Council Member Eaton. 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):

Irv Wilke, 1017 7th Avenue, commended the council on the decision they just made. He thinks it needs a lot more research. Mr. Wilke personally has an objection to the product, and believes there is a better avenue for these folks. He does not think it is needed in our community, as they already have it in Billings. Until the federal government makes it a legal product, he thinks we need to keep it out of our community.

COUNCIL DISCUSSION:

Council Member Poehls thanked the council for understanding his absence the last two sessions, as he had family commitments.

Council Member Mountsier agrees with Council Member Poehls' statement that one cannot separate the variance from the product that is being used. He spent 28 years in law enforcement trying to wipe out some of this stuff. States that are approving it are trying to circumvent the federal law, even though it is a violation of federal law. He has seen abuses of medical marijuana in other states where people that never really had injuries would come in with cards just to buy marijuana to smoke. He does not understand why, if there is a legitimate medical use for it, the American Medical Association does not approve it, which would move it from a Schedule 1 Hallucinogen to a Schedule 2 for medical purposes. Then people could obtain this through a physician and pharmacy like anyone else could. He thinks it is just a violation of federal law and they are trying to circumvent Title 21 of the United States Code.

Council Member Nelson announced that the Cemetery Commission will have a meeting next week, Tuesday, June 13th at 5:00 p.m. in the Council Chambers. They have a full agenda and will probably not have a meeting in July.

Council Member McGee announced that there is an opportunity for citizens to become a member of the council. The deadline to file for a seat is June 19th to be on the November ballot. He also asked

if Noel could share a memorandum she created to help the City-County Planning Board understand the variance code as it is written.

Noel said she could share that document. She tried to break the code down based on the language that Sam Painter, City Civil Attorney, has in his resolutions for granting a variance. She said it was a helpful tool for the Planning Board last week. She would like the Local Government Center to meet with the new board members. Variance discussions are difficult, but without it the public and the rest of the board do not know why a variance is approved or denied. Variances have come up quite often recently, and that is the only avenue she has for citizens in some cases.

Council Member McGee said that maybe the council needs to rethink some other things. One of the complaints that he has heard from the City-County Planning Board is that they have to make a decision right there on the spot. The council gets one workshop and then the variance is voted upon. He would like the council to work towards variances being a rarity rather than a reoccurring thing. He said it is a very difficult balancing act for council members, and he would like to do what is possible to minimize the gravity of the situation.

Noel thinks that she and Sam can work through and possibly rewrite the variance code. Missoula County or the City of Missoula do not allow variances for allowable uses.

Council Member Emelie Eaton announced that the Public Works Committee will meet on Monday, June 12th, at 6:00 p.m.

UNSCHEDULED MATTERS: None.

ADJOURNMENT:

Motion by Council Member Dickerson to adjourn the council meeting, seconded by Council Member Eaton. 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 7:20 p.m.


Heidi Kelsey, Administrative Assistant

Approved by the Mayor and passed by the City Council of the City of Laurel, Montana, this 20th day of June, 2017.


Mark A. Mace, Mayor

Attest:


Bethany Keeler, Clerk/Treasurer