

**MINUTES  
CITY OF LAUREL  
CITY COUNCIL WORKSHOP  
TUESDAY, MARCH 01, 2022**

A Council Workshop was held in Council Chambers and called to order by Mayor Dave Waggoner at 6:30 p.m. on March 1, 2022.

**COUNCIL MEMBERS PRESENT:**

<input checked="" type="checkbox"/> Emelie Eaton	<input checked="" type="checkbox"/> Heidi Sparks
<input checked="" type="checkbox"/> Michelle Mize	<input checked="" type="checkbox"/> Richard Herr
<input checked="" type="checkbox"/> Scot Stokes	<input checked="" type="checkbox"/> Irv Wilke
<input checked="" type="checkbox"/> Richard Klose	<input checked="" type="checkbox"/> Bill Mountsier

**OTHERS PRESENT:**

Michele Braukmann, Civil City Attorney  
Bethany Keeler, Clerk/Treasurer  
Jean Kerr, City Judge  
Sherri Phillips, Court Clerk  
Ryan Welsh, KLJ

**Public Input:**

There were none.

**General Items**

1. Appointment of Ken Olson to Cemetery Commission for the remainder of a two-year term ending June 30, 2023.

Council was directed to read the attached letter from their packets.

2. Motion to allow Council Member Sparks to be absent from the City of Laurel for more than ten days. (LMC 2.12.060)

It was questioned if this was a private or Council absent. It was clarified that this request is for a personal absence.

**Executive Review**

3. Resolution - State Land Use License #6202

Joe Holzwarth, DNRC, briefly explained that this agreement is a land use license for the Yellowstone River. The cost is \$150/year, and the contract is for the next ten years. The City currently has five authorized uses within the river.

**Council Issues**

4. Retention Pond Discussion

Ryan Welsh, KLJ, briefly presented the attached PowerPoint presentation.

It was questioned if this pond would look like the one at Walmart. It was clarified that it would be a grassed area and a functioning park until it needed to hold water.

It was questioned if the dirt and trees would be removed. It was clarified that dirt would be removed to create the pond. Most of the trees will not need to be removed, and it will be able to function like a soccer field.

It was questioned if it could be used for an ice-skating rink. It was clarified that it could be a possibility.

It was questioned how long it would take to drain. It is expected that a foot and a half of water would take a day or so to drain out of the pond.

It was questioned when the new outfall would be done since this is a temporary fix. The new outfall will move forward when Council is ready to proceed.

Sean Stringer, 306 Yellowstone Avenue, stated he works for Billings Parks and Recreation. They have a few of these ponds/parks, and they work well.

5. Judges Wages Discussion

Jean Kerr, City Judge, briefly reviewed the attached handout.

Michele Braukmann, Civil City Attorney, briefly reviewed the attached document.

**Other Items**

**Review of Draft Council Agendas**

6. Draft Council Agenda for March 8, 2022.

Council Mountsier requested his time off request be added to the next City Council agenda.

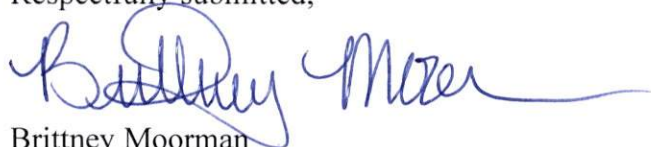
**Attendance at Upcoming Council Meeting**

All Council Members present plan on attending next week's City Council meeting.

**Announcements**

The council workshop adjourned at 7:25 p.m.

Respectfully submitted,



Brittney Moorman  
Administrative Assistant

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

Feb. 1, 2022

RE: Cemetery Board position

Mayor Waggoner;

I would like to continue my opportunity to serve on the Laurel Cemetery Board. Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Ken Olson", with a long horizontal flourish extending to the right.

Ken Olson

## Laurel South Side Retention Pond

2021 Southside Master Stormwater Plan Oct. 2021 Recommended:

- Creation of a storm drain system on the South Side
- Detention of Stormwater in Russell Park
- New Outfall from Russell Park to the Clarks Fork Ditch (East of CHS Refinery)



ENGINEERING, REIMAGINED

1

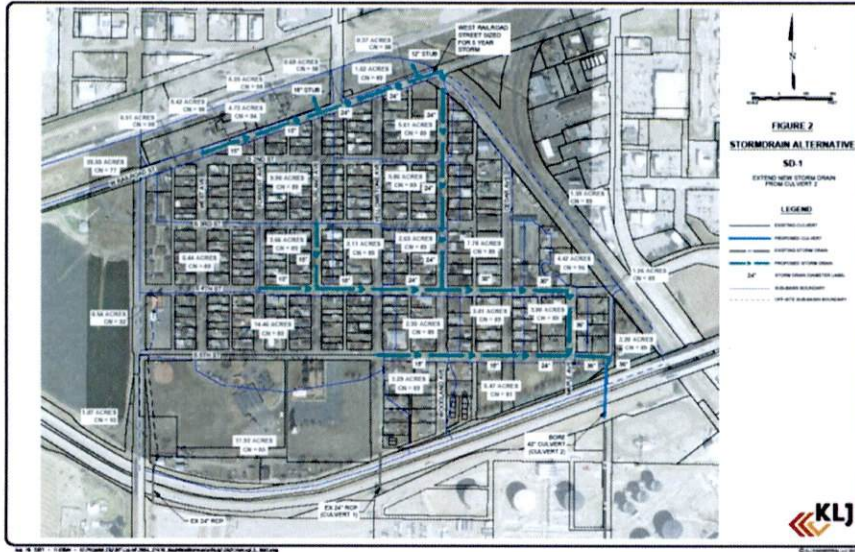
## Drainage Areas



ENGINEERING, REIMAGINED

2

## Storm Drain Creation



3

## Russell Park Detention & Outfall Improvements



4

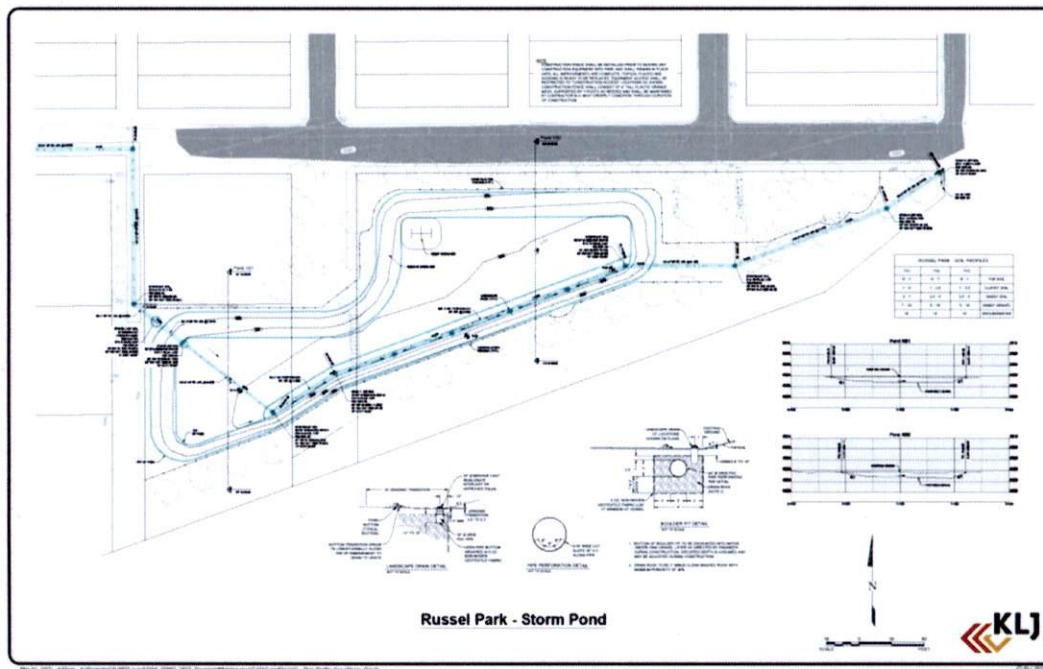
## Detention Pond Benefits

- 1. Stormwater Treatment
- 2. Maintains Existing Drainage Patterns
- 3. Fewer Facilities to Maintain
- 4. Infiltration provides Temporary Solution
- 5. Access to the Outfall
- 6. Fewer Acquisitions



ENGINEERING, REIMAGINED

5



6

## Existing Park Conditions



ENGINEERING, REIMAGINED

7

## Example Detention Pond/Park



ENGINEERING, REIMAGINED

8

## Example Detention Pond/Park



ENGINEERING, REIMAGINED

9

## Example Detention Pond/Park



ENGINEERING, REIMAGINED

10

## Other Potential Park Improvements

- Underground Sprinkler System
- New Playground Equipment
- Shelter & Picnic Tables



ENGINEERING, REIMAGINED

11

# American Parks Company

## Amazing Adventure

AGES 5-12  
Use Zone: 12' x 30'    Net Child Capacity: 20  
Full Height: 8'0"

Activities: 1

## BUNDLES OF FUN

ALL-INCLUSIVE PLATFORMS

Commercial Play Structure  
Modular, weather-resistant  
Commercial Plastic Bottle  
Weather-resistant, long-lasting  
100% Recycled

## Open Range

AGES 5-12  
Use Zone: 24' x 30'    Net Child Capacity: 20  
Full Height: 8'0"

Activities: 1

## red Start

AGES 3-8 OR 5-12  
Use Zone: 36' x 24'    Net Child Capacity: 20  
Full Height: 8'0"

Activities: 1

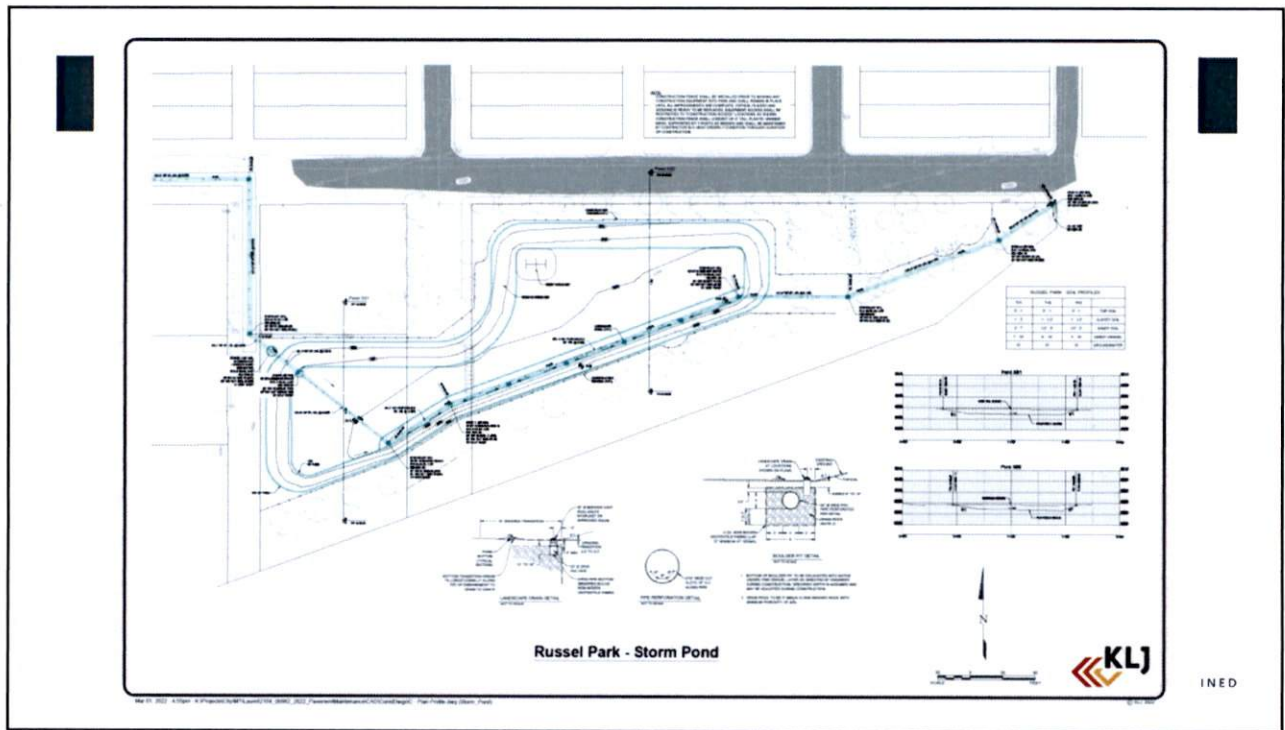
## BUNDLES OF FUN

ALL-INCLUSIVE PLATFORMS

Commercial Play Structure  
Modular, weather-resistant  
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Weather-resistant, long-lasting  
100% Recycled

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AmericanParksCompany.ca 1-800-581-6801
AmericanParksCompany.com 1-881-6801
AmericanParksCompany.au

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## **Proposed Ordinance:**

### 2.68.100 City Judge – Salary

The annual salary of the city judge shall be calculated yearly at 10%/15%/20% above the base salary of the Clerk III plus longevity accrued for each year of service as city judge. The city judge's salary shall be paid on the regularly established paydays of the city and include the fringe benefit of regular group health coverage and life insurance supplied to other city employees. This ordinance is approved by the City Council by resolution \_\_\_\_\_.

### Example: **10% above base salary:**

Clerk III base salary 7/1/2021	\$45,364.80
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Judge Salary (base+10%)	\$49,901.28
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Judge Kerr would be paid:  $\$49,901.28 + \$2,418.00 = \$52,319.28$

### **15% above base salary would yield:**

Judge Kerr would be paid:  $\$52,169.52 + \$2,418.00 = \$54,587.52$

### **20% above base salary would yield:**

Judge Kerr would be paid:  $\$54,437.76 + \$2,418.00 = \$56,855.76$

### **Note**

\*20% above base salary is more in line with department head starting salaries.

\*The Judge must be certified every 4 years by the Supreme Court.

\*The base wage would be adjusted every year according to the Clerk III wage adjustment accordingly.

\*Department Heads obtain yearly increases in salary, not only in longevity according to the situation.

\*Note: there have been lump sums paid for back wages in the past.  
It has been done for non-union workers/department heads.

Grade	Position	7/1/2019 Adjusted Salary for Calculation % increases	Effective 7/1/2020 2.00% Increase	Effective 7/1/2021 3.00% Increase	Effective 7/1/2022 2.00% Increase
1					
2					
3	Maintenance Worker I	17.60	17.95	18.49	18.86
	Court Clerk I	17.35	17.70	<u>18.23</u>	<u>18.60</u>
4					
5	Court Clerk II	19.05	19.43	<u>20.01</u>	<u>20.41</u>
6	Water Plant Operator I	24.08	24.56	25.30	25.81
	Wastewater Operator I	24.08	24.56	25.30	25.81
	Maintenance Worker II	23.50	23.97	24.69	25.18
	Court Clerk III	20.75	21.17	<u>21.81</u>	<u>22.25</u>
	Utility Maintenance Worker II	24.00	24.48	<u>25.21</u>	<u>25.71</u>
7	Mechanic	24.37	24.86	25.61	26.12
8	Water Plant Operator II	24.81	25.31	26.07	26.59
	Wastewater Operator II	24.81	25.31	26.07	26.59
	Maintenance Worker III	24.87	25.37	26.13	26.65
	Utility Maintenance Worker III	25.37	25.88	26.66	27.19
9	Water Plant Chief Operator	26.20	26.72	27.52	28.07
	Wastewater Chief Operator	26.20	26.72	27.52	28.07

# PER PAY CHECK

2080 hrs/yr

DEPT. HEAD LONGEVITY - Union #303 and Non-Union		CITY Union LONGEVITY #316	
1= 3.88	21= 81.38	1= 4.00	21= 84.00
2= 7.75	22= 85.25	2= 8.00	22= 88.00
3= 11.63	23= 89.13	3= 12.00	23= 92.00
4= 15.50	24= 93.00	4= 16.00	24= 96.00
5= 19.38	25= 96.88	5= 20.00	25= 100.00
6= 23.25	26= 100.75	6= 24.00	26= 104.00
7= 27.13	27= 104.63	7= 28.00	27= 108.00
8= 31.00	28= 108.50	8= 32.00	28= 112.00
9= 34.88	29= 112.38	9= 36.00	29= 116.00
10= 38.75	30= 116.25	10= 40.00	30= 120.00
11= 42.63	31= 120.13	11= 44.00	31= 124.00
12= 46.50	32= 124.00	12= 48.00	32= 128.00
13= 50.38	33= 127.88	13= 52.00	33= 132.00
14= 54.25	34= 131.75	14= 56.00	34= 136.00
15= 58.13	35= 135.63	15= 60.00	35= 140.00
16= 62.00	36= 139.50	16= 64.00	36= 144.00
17= 65.88	37= 143.38	17= 68.00	37= 148.00
18= 69.75	38= 147.25	18= 72.00	38= 152.00
19= 73.63	39= 151.13	19= 76.00	39= 156.00
20= 77.50	40= 155.00	20= 80.00	40= 160.00

## VACATION SCHEDULE

YEARS	SALARY / HOURLY
1 - 10	4.61539 / .05775
11 - 15	5.53847 / .06925
16 - 20	6.46154 / .08077
21 - 99	7.38462 / .09231

## SICK LEAVE ACCURAL

SALARY/ HOURLY
3.69231 / .04616

Calculation of Employment Longevity (Jean Kerr 24 Years)

1= 100.88  
2= 201.50  
3= 302.38  
4= 403.00  
5= 503.88  
6= 604.50  
7= 705.38  
8= 806.00  
9= 906.88  
10= 1007.50  
11= 1108.38  
12= 1209.00  
13= 1309.88  
14= 1410.50  
15= 1511.38  
16= 1612.00  
17= 1712.88  
18= 1813.50  
19= 1914.38  
20= 2015.00  
21= 2115.88  
22= 2216.50  
23= 2317.38  
24= 2418.00

Note: 2021 Pay Comparison

Judge: \$43,359.94

Clerk III: \$47,782.80

(base+longevity)

Difference: \$4,422.36 this year

**\$30,226.56** longevity not paid for years of service

# City of Laurel City Council Discussion Item

*City Court Judge Compensation Discussion*

**Date of Discussion:**

March 1, 2022  
6:30 p.m.

City Council Meeting

City Council Chambers  
115 West 1st Street  
Laurel, MT 59044

## **INTRODUCTION**

The following information is being provided to the City of Laurel by the City of Laurel Civil City Attorney to evaluate an ongoing discussion item related to the judicial compensation for the City of Laurel City Court Judge. At the present time, the existing City of Laurel City Court Judge is Judge Jean Kerr, elected in Fall 2021.

## **FACTUAL BACKGROUND**

The City of Laurel City Court Judge has requested a compensation increase from her existing wages of \$43,360, plus fringe benefits of health insurance through the City of Laurel's health insurance plan. As the City Council has already been presented with, at meetings in late 2021 and early 2022, Judge Kerr has provided information regarding her compensation in relationship to the City Court Clerks and what she believes to be "lost and back/longevity pay." City Council Members have already been presented with this information, in meetings on 9.21.2021, 12.21.2021, and 1.18.2022. That information is available to the public and all City Council Members, in relationship to those City Council Workshops in 2021 and 2022.

The City Court Clerks are bargaining-employees, subject to Union wages, benefits, and compensation, which is negotiated on a regular basis with the City of Laurel. Their wages and benefits are not at issue in this discussion, except to the extent that Judge Kerr has utilized them to "compare and evaluate" her wages and compensation.

Judge Kerr is not a bargaining-Union employee. She is an elected official, for four-year individual terms, prior to which her salary is set by Resolution of the City of Laurel. Judge Kerr is a part-time elected official, who sets her own hours, vacation time, sick days, personal days, and time away from the Bench. She is not subject to any of the bargaining or non-bargaining personnel

requirements, rights, and obligations of other City employees. She works a part-time schedule, and she is not considered an exempt or full-time employee of the City of Laurel.

The Laurel City Court is not a court-of-record. This means that a transcript of all proceedings in the Laurel City Court is not made. The Laurel City Court is a court of limited jurisdiction, often referred to as an “inferior court,” because its decisions are not binding upon litigants, and all appeals are taken *de novo* (meaning an entirely new trial) to District Court in the Thirteenth Judicial District of Montana, Yellowstone County. Any decision of the Laurel City Court is subject to an entirely new trial, with a jury, all new evidentiary issues, and a complete “restart” at the District Court level, if a litigant believes that he/she did not receive a fair trial at the City Court level.

The Courts of Limited Jurisdiction in Montana include City Courts and Municipal Courts. Although the jurisdiction of these courts differs in some significant respects, collectively they address cases involving misdemeanor offenses, civil cases for amounts up to \$12,000, small claims valued up to \$7,000, local ordinances, forcible entry and detainer, protection orders, and certain issues involving juveniles.

Municipal Court Judges are lawyers. They are elected, unless appointed to fill a vacated position. City Court Judges may or may not be lawyers. They may be elected or appointed. In the City of Laurel, the City Court Judge is elected, and she/he does not have to be a lawyer or have any law school education. All Limited Jurisdiction Court Judges serve four-year terms. As noted, City Court Judges are not required to be attorneys, although multiple are. Municipal Court Judges must be attorneys, and they must be appointed or elected. Various municipalities in the State of Montana utilize both appointment and election procedures to sit Municipal Court Judges.

The Laurel City Court is not a Municipal Court, as the City of Laurel has not made the decision to convert its Court to a Municipal Court, to date. This means that the Judge does not need to be a licensed attorney, with at least 7 years of undergraduate, graduate, and law school training, if not more, admission to the State of Montana and Federal Bars, and prior practice as a licensed attorney in the State of Montana. The Judge must only attend the annual training required by the State of Montana and pass a Certification Examination during his/her term.

Judge Kerr has been a City Court Judge in the City of Laurel for over twenty years. From my understanding, in twenty years, she has largely ran unopposed, if opposed at any time, at all. For 2021, Judge Kerr was opposed in a race involving the present City of Laurel Prosecutor, and she was successful in defeating the City Prosecutor and was again elected for another four-year term.

Judge Kerr was elected to serve an additional four-year term at the close of 2021. Judge Kerr has now presented, to City Council, information requesting a compensation increase. There are also other matters pending related to City Court requests by Judge Kerr, and a meeting is presently scheduled between Judge Kerr, the Mayor, and the Civil City Attorney to attempt to work through some of these issues and try to create the best possible outcome for the Laurel City Court, its personnel, and the constituents of the City of Laurel. The Mayor and the City Attorney will keep the City Council apprised, as these discussions progress the next few weeks.

In addition to requesting a compensation increase, which Judge Kerr has proposed at a range of ten (10) to twenty (20) percent, Judge Kerr has requested longevity pay stemming back approximately 24 years. The schedule proposed by Judge Kerr is as follows:

Calculation of Employment Longevity (Jean Kerr 24 Years)

1=	100.88
2=	201.50
3=	302.38
4=	403.00
5=	503.88
6=	604.50
7=	705.38
8=	806.00
9=	906.88
10=	1007.50
11=	1108.38
12=	1209.00
13=	1309.88
14=	1410.50
15=	1511.38
16=	1612.00
17=	1712.88
18=	1813.50
19=	1914.38
20=	2015.00
21=	2115.88
22=	2216.50
23=	2317.38
24=	2418.00

Note: 2021 Pay Comparison

Judge: \$43,359.94

Clerk III: \$47,782.80

(base+longevity)

Difference: \$4,422.36 this year

**\$30,226.56** longevity not paid for years of service

Resolution No. R15-51 of the City of Laurel, passed on June 2, 2015, set the City Court Judge compensation, moving forward and effective July 1, 2015. It did not include longevity pay. It did, however, include bonuses for "re-election." This compensation schedule is as follows:

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### Judge Salary Matrix

Years of Service	Additional Pay Re-Election	Yearly Salary
Year 1		\$ 35,000.00
Year 2		\$ 35,254.00
Year 3		\$ 35,508.00
Year 4		\$ 35,762.00
Year 5	\$ 500.00	\$ 36,516.00
Year 6		\$ 36,770.00
Year 7		\$ 37,024.00
Year 8		\$ 37,278.00
Year 9	\$ 500.00	\$ 38,032.00
Year 10		\$ 38,286.00
Year 11		\$ 38,540.00
Year 12		\$ 38,794.00
Year 13	\$ 500.00	\$ 39,566.00
Year 14		\$ 39,820.00
Year 15		\$ 40,074.00
Year 16		\$ 40,328.00
Year 17	\$ 500.00	\$ 41,082.00
Year 18		\$ 41,336.00
Year 19		\$ 41,590.00
Year 20		\$ 41,844.00
Year 21	\$ 500.00	\$ 42,598.00
Year 22		\$ 42,852.00
Year 23		\$ 43,106.00
Year 24		\$ 43,360.00
Year 25	\$ 500.00	\$ 44,132.00
Year 26		\$ 44,386.00
Year 27		\$ 44,640.00
Year 28		\$ 44,894.00
Year 29	\$ 500.00	\$ 45,648.00

**\$500 Additional Salary for Re-Election - Beginning January 1 after  
re-election**

This matter is not before the City Council by way of formal Resolution, but it is on the agenda for the March 1, 2022 meeting for discussion by City Council. Before any decision can be made by City Council, it is my advice as City Attorney that a formal resolution needs to be proposed, public notice and comment provided, consideration through formal City Council

Meetings, and then any action, if taken, ratified by way of Resolution by City Council. It is further my recommendation that any action taken, moving forward, address only future compensation, and not back or "past" longevity pay, as that was never approved by way of Resolution of the City of Laurel at any time. City Council is free to discuss the matter, allow public comment, and consider for placement on a future formal agenda, but at the present time, this legally is only a workshop item for comment and consideration. Any legal action to approve any change in compensation on March 1, 2022 would be illegal and would contravene the process by which compensation is changed for City Judges with the City of Laurel.

### **LEGAL ISSUES**

There are several governing legal issues involved in setting a City Court Judge's compensation. These are as follows:

#### **Montana Code Annotated**

The Montana Code Annotated allowed the City of Laurel to establish a City Court, although not a court of record. This was done legally, years ago. *See* Mont. Code Ann. § 3-11-101:

City Court Established -- City Court Of Record

**3-11-101. City court established -- city court of record.** (1) A city court is established in each city or town. A city judge shall establish regular sessions of the court. On judicial days, the court must be open for all business, civil and criminal. On nonjudicial days, as defined in **3-1-302**, the court may transact criminal business only.

(2) A city may establish the city court as a court of record. If the city court is established as a court of record, it must be known as a "city court of record". The court's proceedings must be recorded by electronic recording or stenographic transcription, and all papers filed in a proceeding must be included in the record. A city court of record may be established by a resolution of the city commissioners or pursuant to **7-5-131** through **7-5-135** and **7-5-137**.

Montana law also specifies how City Court Judges are compensated by a municipality.

Mont. Code Ann. § 3-11-202 specifies:

Salary – Qualifications

**3-11-202. Salary -- qualifications.** (1) A city judge, at the time of election or appointment must:

- (a) meet the qualifications of a justice of the peace under 3-10-202;
- (b) be a resident of the county in which the city or town is located; and
- (c) satisfy any additional qualifications prescribed by ordinance.

**(2) The annual salary and compensation of city judges must be fixed by ordinance or resolution.**

(3) Each city judge shall receive actual and necessary travel expenses, as provided in 2-18-501 through 2-18-503, incurred in the performance of official duties.

Mont. Code Ann. § 3-11-202 (emphasis added).

All salary and compensation decisions by the City of Laurel must occur by way of Resolution, following all applicable legal guidelines. These are the only applicable Montana Code Annotated statutes that govern the enactment, usage, and authority of a City Court in the State of Montana (in relevant part).

I will note that I have serious concerns about changing a Judge's salary and compensation mid-year before the "annual time" for her compensation consideration is at issue, which is not until mid-2022. But, if the Council wants to make that decision, and it puts it on the Agenda with a Resolution for consideration, I do not necessarily believe it would be illegal to do that, although it could raise some possible legal challenges. The statutes are not precise, but generally, an "annual year" is considered, by law, to be consistent with what a municipality sets for its budgeting the following year. It is just not necessarily consistent with what the law contemplates, to try to change

compensation mid-year for an elected official, which says that this needs to be done on an “annual basis,” suggesting that these decisions are made before the start of the usual fiscal year for the City of Laurel budgeting.

### **Laurel City Charter**

The only applicable section of the Laurel City Charter, related to the judicial position of the City Court Judge is as follows: “*Section 4.01 City Court: There shall be a city court or a municipal court as provided by law.*”

No compensation or other requirements are set by Laurel City Charter. So, there are no applicable legal sections here to consider for the Council.

### **Laurel Municipal Code**

Because of no other mandatory legal authority through the Montana Code Annotated and the Laurel City Charter, the Laurel Municipal Code is the only additional and relevant law that applies to setting compensation for the Laurel City Court Judge. LMC § 2.68.100 specifies:

#### **2.68.100 - City judge—Salary.**

The annual salary of the city judge shall be set by city council by resolution, paid on the regularly established paydays of the city, and include the fringe benefit of regular group health coverage supplied to other city employees.

(Ord. 06-09, 2006: Ord. 04-7, 2004: Ord. 01-1, 2001: Ord. 99-26, 1999: Ord. 96-4, 1996: Ord. 94-19, 1994: Ord. 1081, 1993: Ord. 1039, 1992: Ord. 979, 1990: Ord. 889, 1986: prior code § 2.16.120)

(Ord. No. 008-01, 2-19-08; Ord. No. 009-03, 3-17-09; Ord. No. 009-11, 12-15-09)

The LMC allows the City of Laurel, through City Council, and only by way of Resolution, to decide and enact the compensation for a Laurel City Court Judge. However, again, please *see* my comments about mid-year changes to compensation, from a legal standpoint.

### Laurel City Resolution(s)

The applicable Laurel City Resolution, Resolution No. R15-51 of the City of Laurel, passed on June 2, 2015, set the City Court Judge compensation, moving forward and effective July 1, 2015. It provides for a graduated scale of pay increase on a yearly basis, as well as bonuses based upon re-election. (Please *see above* for relevant compensation information, as to specifics of the compensation and fringe benefits.) That Resolution remains in effect, through to today's date, and continuing forward, unless and until changed by Resolution of City Council.

### COMPARABLE INFORMATION

If you look at Judge Kerr's salary, as it relates to Class 3 Municipalities with comparative populations, it is actually very similar, if not higher, than many similarly-sized municipalities (the number below is slightly-off, as it was reflective of 2020 salaries, not Judge Kerr's 2021 salary). The only significantly higher salary is Columbia Falls, but Columbia Falls is also a court of record, which creates much more substantial time demands and additional burdens upon a City Judge. *See* additional comments below on comparative salary information.

City/Town Name	Class	# of FTE	Population	Salary Range	Full/Part Time	Attorney	Court of Record
DILLON	3rd	30.75	4369	\$46,283 with 2% increase each year. New hire would start at same wage.	Full Time	Yes	No
COLUMBIA FALLS	3rd	31	6464	\$60,389 per year with increases last increase was 5%	Part Time (32 hours per week)	Yes	Yes
POLSON	3rd	44.7	5060	\$19.57 per hour (\$25,441) Starting pay \$19.00 per hour plus COLA	Part Time (25 hours per week)	No	Unsure
BELGRADE	3rd	58	9503	\$31,800/year to \$37,510/year After 5 years only receive COLA increase	Full Time	Yes	Yes
LAUREL	3rd	68	7222	\$42,851/year	Part Time	No	No

However, in order to provide a more complete understanding of judicial City Court Judge salaries in the State of Montana, I conducted substantial research into determining compensation for Municipal Judges – whether City Judges of no-record, City Judges of record, and Municipal Judges, regardless of Class Size for the particular municipality. This included gathering this information online through local government services, speaking with my City Attorney colleagues, and looking at open judicial positions being advertised for appointment in the State of Montana the past year. I spent at least twenty (20) to forty (40) hours gathering information to provide the City Council the most up-to-date and accurate information, so that the Laurel City Council can make an informed decision based upon what statistics look like around the State of Montana, for Judges in various positions – elected, appointed, City Judges, Municipal Judges, Courts of No Record, Courts of Records, and Justices of the Peace (which often function very similar to City Court Judges). Some of what is contained in the following summarizes the information that I have gathered for your consideration and evaluation.

I want to first note the significant difference that exists, when making any comparison about judicial issues, whether compensation or workload or judicial responsibility, between a “court of record” and a “court of non-record.” To date, the City of Laurel has elected to be a court of “no record.” However, “courts of record,” which can also be City Courts, as well as Municipal Courts, have very extensive demands that are not present for “courts of no-record.” I will try to explain. A court of record is a trial court or appellate court in which a record of the proceedings is captured and preserved, for the possibility of appeal. A court clerk or a court reporter takes down a record of oral proceedings. That written record (and all other evidence) is preserved at least long enough for all appeals to be exhausted, or for some further period of time provided by law. Most courts of record have rules of procedure (see rules of evidence, rules of civil procedure,

and rules of criminal procedure). In the City of Laurel, there are no real rules that govern how the court process occurs, because it is a court of “no-record.” The Judge sets them, as she determines appropriate at any time, it can change, there is no one to document or record things, and litigants (citizens of Laurel) are basically left at “the mercy of the Court.” No rules really apply, and none can be enforced, because the Court has no record. In courts not of record, oral proceedings are not recorded, and the judge makes his or her decision based on notes and memory. Courts of record, however, have evidentiary rules, transcripts, documentation of what occurred, and so the procedure is more formal. It is also more expensive for a City, and it is burdensome for Judges, and that is why Judges in “courts of record” are paid more, are full-time, and are compensated for staff that allow them to meet the judicial demands that they need to.

To summarize, Laurel is not a court of record. There are no set rules, the Judge sets the schedule, nothing is documented or memorialized (other than basic docket entries), and the procedures and processes are meant to be efficient, fast, and conclude quickly – to allow litigants to very rapidly move on, if they determine appropriate, to district court with a licensed Judge and a *de novo* trial.

So, comparing salaries between Courts of Record and No-Record is misleading. Moreover, comparing City Court Judge salaries to Municipal Court Judge salaries is misleading – because the workload is intensely different.

The MSU Local Government Services Department published the last “official” study on City and Municipal Court Judge Salaries as follows. As you can see from the below, the only locations that have increased compensation significantly have been Columbia Falls and Whitefish, and there are various factors impacted that, which I note further *below*.

Job Title	City Judge <sup>80</sup> Hourly, \$	Annual Salary
<b>Miles City</b>		
Anaconda	19.50 <sup>83</sup>	40,563.43
Havre		
Belgrade		
Livingston	18.28	38,012.16
Whitefish	33.42	69,513.60
Lewistown		
Sidney		
Glendive	18.50 <sup>87</sup>	16,236.00
Columbia Falls	25.22	52,457.60
Hamilton	21.59	44,907.20
Survey City Average	21.64	45,011.20
Montana Median	19.20 <sup>88</sup>	

The only two significantly higher salaries, in comparison to the City of Laurel, are Whitefish and Columbia Falls. Some things to consider, in evaluating the “comparisons” between these respective municipalities:

- The City of Whitefish is a Court of Record. That requires a significant amount more time and burden on the Judge. *See* above comments.
- The City of Columbia Falls is also a Court of Record. *See* same comments above.
- The City of Whitefish is a Municipal Court, not a City Court. *See* my earlier comments about how different a Municipal Court is than a City Court.
- The City of Whitefish Judge is a lawyer. Her name is Judge Caitlin Overland. Here is Judge Overland’s background, so you can assess why she might be at the compensation level that she is:

Judge Overland was born and raised in Montana. She received a bachelor's degree from Northwestern University and later graduated from Lewis & Clark Law School, cum laude. Immediately following law school, Judge Overland returned to Montana and clerked for the Montana Supreme Court. Judge Overland then moved to the Flathead Valley to begin serving as a Deputy Flathead County Attorney. During her time with the County Attorney's Office, Judge Overland worked on a wide range of legal matters including criminal prosecutions, youth court, civil litigation and land use law. She also maintains a private legal practice focusing on soil and water conservation. The Whitefish City Council appointed her to serve as Municipal Court Judge in December 2021.

- The City of Columbia Falls Judge is also a lawyer. Her name is Judge Kristi Curtis.

Here is Judge Curtis's background, so you can assess why she might be at the compensation level that she is:

Judge Curtis was a Whitefish City Prosecutor prior to becoming the City of Columbia Falls Judge. Prior to joining the Bench, Judge Curtis had over 11-years experience as the prosecutor in Kalispell and Whitefish. Judge Curtis has been a licensed attorney for 36 years. In 1981, she graduated from Santa Clara Law School, passed the California Bar, and began working for a mid-sized firm in the SF Bay Area. In 1986, she became the only female partner. She handled all phases of civil litigation, including jury trials and appeals. The firm dissolved in 1998, and she became "Of Counsel," enabling her to move to Montana in 2000. Judge Curtis was then a Judge Pro Tem from 1994 to 2000 at the Municipal and Superior Court level (akin to District Court).

In 2006, Judge Curtis passed the Montana Bar and was hired as the prosecutor in Kalispell where she stayed until 2015. In 2015, the City of Whitefish chose to move its prosecutorial duties from an outside contract to an in-house position. Judge Curtis was hired as the Whitefish Deputy City Attorney. She served in that position until being elected to the Bench for the City of Columbia Falls in 2017.

Prior to being elected to the Bench, Judge Curtis tried over 100 criminal jury trials and hundreds of bench trials. She served as a Judge Pro Tem in Kalispell Municipal Court and Flathead Justice Court. She is now the elected Municipal Court Judge.

- None of the aforementioned Judges receive longevity pay.
- Both of the aforementioned Judges are full-time Judges in courts-of-record and/or Municipal Courts.

You can evaluate that as you choose appropriate. However, to provide you more comparison, I have compiled the additional following information for your consideration.

Compare the City of Laurel to Cities like Anaconda, Livingston, or Hamilton. I provide you these comparisons, so that you can determine how comparable the workload is in the City of Laurel, versus these Cities, and then assess compensation for a City Court Judge, in order to make the most-seasoned and appropriate decision.

*Laurel:*

Laurel has a population of approximately 6,800 citizens. Laurel's City Judge makes approximately 44k per year plus fringe benefits (I do not know the value of that – Bethany or the Mayor can speak to that more specifically). As noted above, Laurel is a “court of no record,” it is not a Municipal Court, and any person can serve as Judge, once elected, and not be an attorney, assuming they receive annual training.

*Anaconda:*

Anaconda has a population of approximately 9,100 citizens. Anaconda's City Judge makes approximately 40k per year. Judge Pahut also serves as Justice of the Peace for the County, including being City Judge. He serves not only the City of Anaconda, but the entire County of Deer Lodge, Montana.

*Livingston:*

Livingston has a population of approximately 7,600 citizens. Livingston's City Judge makes approximately 38k per year. She only acts as City Judge, not Justice of the Peace.

*Hamilton:*

Hamilton has a population of approximately 4,800 citizens. Hamilton's City Judge makes approximately 45k per year. Judge Royce McCarty is the City Judge in Hamilton. Judge McCarty served as Ravalli County Attorney Chief Civil Deputy from July 2019 until he was elected last year in 2021. He is a graduate of both Hamilton High School and the University of Montana's School of Law.

*Lewistown:*

Lewistown has a population of approximately 5,600 citizens. Lewistown's City Judge, Kelly Mantooth, also serves as Justice of the Peace for the entire County of Fergus. He makes \$49,688 per year. He serves the City of Lewistown and the entire County of Fergus as a Justice of the Peace. The population of the entire City of Lewistown and the County of Fergus is approximately 12k individuals that he is serving as Judge for.

**PROPOSED RESOLUTION**

Any decision to change compensation for the Laurel City Court Judge is the City Council's decision, subject to typical veto and other procedural issues. However, if any changes are made to the Laurel City Court Judge compensation, it must be done by way of formal Resolution. It cannot legally involve payment of past longevity pay, as that would be in violation of the existing Resolution in place for years in the City of Laurel, which has been followed and enforced, each respective year, in compensating Judge Kerr. If Council decides to change the City Court salary moving forward, while I have serious concerns about that occurring mid-year, I will draft the appropriate Resolution, once put on the Agenda, and Council can decide whether to approve or not.

I hope that this gives the Council all of the information it needs to evaluate this issue appropriately, in addition to what you have already received in previous workshops. Please do not hesitate to let me know as to any questions.

RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of February, 2022.

CITY OF LAUREL CIVIL CITY ATTORNEY

By: Michele L B

MICHELE L. BRAUKMANN

Cc: City of Laurel Mayor Waggoner  
City Clerk Bethany Keeler