

**MINUTES
CITY OF LAUREL
CITY COUNCIL WORKSHOP
TUESDAY, JULY 20, 2021**

A Council Workshop was held in Council Chambers and called to order by Mayor Tom Nelson at 6:34 p.m. on July 20, 2021.

COUNCIL MEMBERS PRESENT:

<input checked="" type="checkbox"/> Emelie Eaton	<input checked="" type="checkbox"/> Heidi Sparks
<input type="checkbox"/> Bruce McGee	<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"/> Don Nelson

OTHERS PRESENT:

Sam Painter, City Attorney
Bethany Langve, Clerk /Treasurer
Nick Altonaga, Planning Director
Matt Wheeler, Public Works Superintendent
Kurt Markegard, Public Works Director
Matt Smith, KLJ
Sherri Phillips, Court Clerk
Stan Langve, Police Chief
Juliane Lore, City Prosecutor
Jean Kerr, City Judge
Monica Salo, Court Clerk

Public Input:

There were none.

General Items

1. Appointment of Adam Bell, Ashley Bell, and Travis Berchenger to the Laurel Volunteer Fire Department.

Mayor Nelson stated that Chief Peters and all three appointees were unable to be here this evening. They will be in attendance at next week's meeting.

Executive Review

2. Resolution - A Resolution Of The City Council Selecting Kios Brothers As The Successful Bidder For The City's Purchase Of A Garbage Truck.

Matt Wheeler, Public Works Superintendent, briefly reviewed the attached memo.

Council noted the last truck the City received has issues with its transmission. It was questioned if this was the same truck as before. It was clarified that the City has a 2009 AutoCar, and it has been

the best garbage truck in the fleet. One item was not included in the bid specs, and that was the camera system. It will cost an additional \$2,700. It is something that is needed.

It was questioned when the truck would be delivered. It was clarified it would take almost a year to build. They are built to order.

To clarify, Staff has recommended the highest bid of \$376,319.00 and an additional \$2,700 for the camera system. It was questioned if the camera system would be added during the building of the truck. It was clarified that it could easily be added to the construction.

Traditionally the City has had white garbage trucks. There is no additional cost to paint a design on the truck. The Public Works Superintendent asked Council their thoughts on a red, white, and blue version. Council agreed with painting the truck red, white, and blue.

The Public Works Superintendent thanked Kois Brothers for being present for this meeting. One representative drove up from Colorado for this meeting.

3. Resolution - A Resolution Adopting A Formalized Procedure For The City's Fire Department To Administer Fire Member's Drill Pay.

This resolution is to formalize the Fire member's drill pay. The amount has not changed. The amount is \$10.50 per meeting per month.

4. Resolution - A Resolution Of The City Council Approving A Task Order Between The City Of Laurel And KLJ Engineering Inc. To Authorize Service For The 2022 Pavement Maintenance Project.

Kurt Markegard, Public Works Director, stated he requested KLJ to help with the 2022 Pavement Maintenance. He has to have a project by the second Monday in August. This task order is to rebuild a street on the south side, currently in the preliminary stages. What is going to be built has not been established yet at this stage, gathering information.

Matt Smith, KLJ, stated this task order is to reconstruct 2600 linear feet of S. 4th Street. It includes a water main, sewer, curb gutter, and sidewalk. Before working on specifics, will need feedback from residents. This task order includes surveying, 2 public meetings, all engineering, all permitting, and construction. The goal is to be ready to move forward on this project next summer. The City will need to coordinate with MRL, MDT, and CHS on this project. The goal is to have the engineering done by January 2022.

It was questioned if this project is being put in front of W. Railroad. It was clarified. The Staff is looking at doing both. That will be discussed further down on this agenda. W. Railroad is a State project and will take three to five years to finish.

Kurt showed Council a pipe that was removed from a water break on Woodland Avenue. The pipes are rusting out. It is not good to have this kind of decay under the streets. Those water lines cannot be replaced until the City has a way in and out of the southside for the heavy construction vehicles to maneuver. The City cannot get materials for three-inch lines.

Council noted that on September 18, 2018, they decided to move forward with W. Railroad Street they requested an answer on how these would be financed. It was clarified that the Water Fund pays for water improvements. The Sewer Fund pays for sewer improvements. Street Maintenance will pay for paving improvements.

Council noted that if both projects were done simultaneously, it would shut down access to the Southside. It was clarified that they would be one at a time. If the City funds the gap on W. Railroad, it will still need to be designed. That process will take time. This task order is asking KLJ to design S. 4th Street. They can both go forward; one is faster as the City is not relying on the State.

Council questioned if Pavement Maintenance is going to pay \$595,800 to design S. 4th Street. It was further questioned who was going to pay for the pavement portion of S. 4th Street.

Matt Smith, KLJ, clarified that this task order includes designing the road, engineering and construction, and getting ready to go out to bid. The project is broken up into \$300k for design and the remainder for the administration of the project. The fees would be spread out over approximately six months. In Fall 2022, the remainder of the fees would be due.

Mayor Nelson clarified that W. Railroad is an Urban Route. The State designs those projects. There is a gap. S. 4th Street is the City's responsibility.

Council noted that Pavement Maintenance usually pays for pothole repairs, chip sealing, crack sealing, etc. It was questioned if the City would be spending the entire maintenance funds for the design of one street. It was clarified that some of the design fees would come from the Water and Sewer Funds. It would be the same process as the City did for 5th Avenue, E. 8th Street, and E. 6th Street. Sidewalks can be done with Special Improvement Districts. Every intersection has an ADA corner that the City pays for. This street has many challenges; however, it is not unlike other projects that have been done. The City can do smaller maintenance projects and save the rest to cover the cost of the street. Street Maintenance can also possibly bond. The City needs a designed street before it can bond. Over the last year, costs have gone up. It is unclear how those price increases will affect this project.

The waterlines will need to be replaced for the entire length of the street. The valves in the area are failing. There are fire hydrants that have failed. The City needs to find out what those costs are going to be able to assess and keep that assessment affordable. The City also needs to do the entire length of the street, or it will destroy the street further.

It was requested that KLJ break out the costs and what funds those costs would be paid from. Council requested that information in advance of a vote as they need all the information to make a decision. Council has the right to delay the vote if they do not have all the information. Council would also like this information not to be handed off at the last minute, assuming they are voting in the affirmative.

Laurie Fox, 914 12th Avenue, stated her son lives on 4th. She stated she was just horrified seeing that pipe because my grandkids are drinking water right there, just in those duplexes off the tracks. The southside streets are so narrow. There is not model T's driving on those roads anymore. We've got big trucks, and it's not the same. We have to figure out to get this fixed because there are a lot of

people drinking water through those pipes. She would like to challenge someone, at least think about it, if they would like to live somewhere for about a year and drink through that pipe. Just think about that. I know funds and money are tight, but it's a thought I would like each and every one of you to think about when you drink your water tonight. Remember that pipe.

Council noted that those kinds of pipes are located throughout the City.

Mayor Nelson stated that this item would be pulled from next week's agenda and brought back the first Workshop of August.

5. Resolution - A Resolution Of The City Council Authorizing The Award Of Grants From The Tax Increment Financing District Funds Pursuant To The LURA Large Grant Request Program For Eligible Applicants And Improvements.

Nick Altonaga, Planning Director, stated this resolution was pushed from the last Council cycle. These are the 2021 LURA Large Grant applications. LURA reviewed them at their June meetings. There were six applicants this year. The total recommended award is \$274k. He spent time reviewing each application for eligibility. There were no glaring issues. In the last Workshop, there were questions about eligibility. These requests are similar to those of the last few years. They are different projects, different applicants, similar activities.

Council asked if they were expected to vote on these in a six-item block without discussion. It was clarified that is how it has been done in the past. A Council Member noted they have serious concerns regarding these requests. They are for internal remodeling, not infrastructure. Some of these projects are very expensive. They noted it seems as if there is a lack of understanding for the LURA Board on what the City has been trying to finance regarding the W. Railroad. It was questioned if Council could discuss reducing some of these amounts. It was clarified that LURA isn't spending any money. LURA administers these grant programs. Anything over \$5k comes to Council. The Council controls the purse strings on City funds. The City has spent TIF dollars for interior work because of how the Large Grant program is written. In the past, they replaced a bathroom. It's not that these projects are not allowed; the Planning Director would not have brought these projects to Council. It is Council's responsibility to decide where they would like to spend those funds. LURA's goal is to remove blight within the District. It is Council's responsibility if they want to spend that money on grants, or if they want the grant program, etc. Council can ask for these grants to be separated and come forward as individual resolutions.

Multiple Council Members voiced that these grants should be for exterior work. Multiple Council Members voiced the desire to separate these grants into individual resolutions for next week's meeting.

A Council Member noted that these businesses pay into this with their tax money each year. Laurel Ford is putting in almost \$500k worth of improvements. They are asking for \$145k of grant funds. It was questioned if the grant program is taken away and those funds are used on a street if they would be used within the TIF District or anywhere within the City.

It was clarified that the scrutiny of LURA is warranted. They misunderstand their purpose. What LURA has been doing is within a grey area. It is out of the ordinary from what other Municipalities across the State are doing. Council has the ability to approve or deny the spending of funds. The

Planning Director does not have an issue with the removal of grants or the reassessment of grants. He stated he sees the need for grant programs. However, LURA has misunderstood the mission and scale of blight removal. The Planning Director does have an issue with this coming up after reviewing the grants. Many people are looking for assistance. He spent a lot of time reviewing these. He gladly accepts the decision of the Council. He has worked with LURA to make more reasonable decisions. However, they may need to rethink things.

Some Council Members agreed with the Planning Director that it is late in the game to question the grant programs. Some felt that they should wait until the next round to make changes. Others questioned how the money is being used and that they would not know what was applied for until it came before Council. Council Members did voice that they needed to tighten up what is and is not allowed.

The grants will be broken into separate resolutions for next week's meeting. Council will be able to vote on each item individually.

Some Council Members felt the money had been promised to applicants. It was clarified that the approval of the grant is never promised to the applicants.

Council requested discussion about how the TIF District should operate and how they would like to see things going forward.

6. Resolution - A Resolution Of The City Council Authorizing The Award Of A Grant From The Tax Increment Financing District Funds Pursuant To The Lura Small Grant Request Program For Eligible Applicants And Improvement To An Apartment Building Located Within The District.

Nick Altonaga, Planning Director, stated this resolution is to award a small grant for \$5k to Peggy and Ken Miller for upgrading HVAC in their apartment building. This grant request went before LURA on April 19, 2021. LURA approved this grant but had concerns. Applicants have created issues with the grants in the past. Last year they had one grant that was ineligible. This grant was approved for HVAC as an energy efficiency upgrade. The Planning Director does not recommend the approval of this grant because of being problematic and the attitude towards the LURA program.

7. Resolution - A Resolution Of The City Council Requesting The Mayor And City Staff Review The Existing Animal Regulations And Propose An Amendment To The Existing Regulations To Allow Persons To Own Chickens Within The City Limits.

This is a resolution of intent to create an ordinance. If the Council votes to approve this resolution, the Mayor will send the item to Emergency Services Committee to work on the proposed ordinance for a period of time. Then bring it back to Council. If they vote it down, then it dies.

Laurie Fox, 914 12th Avenue, stated she thinks Laurel needs to spend some time on ordinances of dogs and the animals that are illegal in the City limits at this point. The chickens can come down the road. The Police are in charge of what happens with animals, and they have much more work to do to figure out what's going on than someone having problems with a dog. That's just my feeling that that should come first. The Police don't have time to take calls about someone's pet problems.

Stan Langve, Police Chief, stated he agreed. This morning his day started at 3 a.m. with a shooting. There are things that are of much more priority, for instance, the nuisance ordinance. There are bigger fish to fry.

Jean Kerr, 1128 9th Avenue, stated that as a citizen, we need to get the dog situation also under control as far as ordinances. And making sure the ordinances are enforced. Lately, in Court as the Judge, she has had people questioning cats. And like I usually say, cats aren't usually put on a leash like dogs are, but people complain about that—that one case with the ducks. There was more to that case than what was brought before the Council. And that case ended up being dismissed in lack of prosecution. That lady showed up, and it was just the lady and me there; since there was no one there to prosecute, she told me her story. That began with four dogs that went around as a pack out at the trailer Court out there. They came, and they were killing the ducks. So when she called, that was her story, but that was due to these dogs that run. She said that they are known to run. She said that we have a lot of people living in a condensed area. I am ordering restitution as to a pit bull that attacked a lady walking her dog on a leash in the street over there. There is a bullet hole in the side of the dog. We had our second case where there was a dog that was skinned, and he barely lived. It was touch and go for a while. That's two now within the last six years.

Not only does the nuisance ordinance need to get fixed, but we also need to look at the nuisance dog. There are more pit bulls, and there are more mean dogs in here. Please, there are concentrated groups of people within these trailer homes and stuff. And with the Drug s and everything else. These dogs are raised to be mean. But the bad thing is people are also the victim as well. They are their pets, and that's not fair. She would also hope the chickens are put onto the back burner until we get a hold of what we are dealing with now. Then we can look people in the eye with other animals that are meant to be monitored. Thank you.

It was stated at one time, and there was an animal control officer. It was questioned if the Police Chief had thought to bring that position back. It was clarified that during budget talks, there had been a discussion about bringing an animal control officer back. The Police Chief is working on a job description for that person. This role would deal with parking, barking, and nuisance complaints.

Council questioned why this resolution was brought to Council when it is the Mayor's choice whether or not to instruct Staff. Council requests of the Mayor, but the Mayor has the choice if he will instruct Staff to work on the requested item. It was clarified that this resolution asks Council if they want an ordinance drafted to allow chickens within the City. The Mayor felt that Council had mixed feelings about this topic and did not want to have Staff spend time on something Council did not want.

It was requested for a five-minute recess.

Council Issues

8. Judge Qualifications Draft Ordinance Discussion

My name is Juliane Lore. I live here on Roundhouse Drive. This is my second appearance here. Thank you for this time. I serve as ... my name is Juliane Lore I apologize I'm nervous as my voice

gets lower when I am nervous I will warm up I live here on Roundhouse Drive this is my second appearance on this issue I serve as the prosecutor here in Laurel it's an honor to serve this City, I also serve as the City Attorney for Joliet and I have a small firm, I provided after the last meeting a copy of proposed Municipal Court of Record ordinance to support this and that is a little bit different than I first envisioned after I began working on the Court of Record I realized that recoggling the City Court of Record to a Municipal Court under the MCA would create Court of Record that looks like the tax Court of Record and it seems ineffective that most of all the other cities that I reviewed when they move to Municipal Court status per the MCA abolishment of the previous Court of Record and replacement much of the new Court of Record is exactly like the City Court of Record that we want to keep So that is the reason why there is a new chapter than chopped up existing Court of Record that we get to the same place.

I also brought and distributed a copy of the entire MCA chapter that guides Municipal Courts. I provided as a sample the Municipal Court Court of Record from Great Falls. I also looked at eight different Municipal Court Court of Records; there's quite a variety. Billings just refers to the MCA after the establishment of the Court, and there are almost no ordinances whatsoever. Missoula has reworked it so many times that between the supplements, the republications, I'm not certain what their Court of Record is. Missoula over lawyers, I think that a variety is simply between the Court of Record that I am referring to in Great Falls and the Bozeman Court of Record, which is a little bit longer. Still, they're a Court that more recently obtained Municipal status. I think that those clauses are being gone heavily then redrafted, so that I think that might be appropriate for Laurel. Before I go into just the Court of Record, and I will make this brief, I just a few highlights on each of the sections. I'm not going to read everything through with you. But there are two things in the bigger picture that I wanted to bring up. What that really becomes more empathized the more I research I did and the harder that I worked to supplement the material information that we need to make this decision and to put things together that I think this Court could achieve; the first one is autonomy from Billings, we, we are viewed as a Billings bedroom community, I think, by some people I can't be the only person that has heard the joke or even sometimes the earnest question you know when are you guys going to be annexed to Billings? Right now, we don't have a...our warrants, we don't have exclusive programs of our own such of the words I would like to bring up, but if we handle our Laurel, our business in Laurel to establish a Municipal of our own, if we handle our own small claims if we can issue our warrants for misdemeanors and felonies committed here if our Judge and our Court are in equal standing with the Billings Municipal Court I think we are clearly pretty sticking out with the position that we will never be a Billings bedroom community. These are two cities with very different characters, growing side-by-side, and I think that this step to Municipal Court is important to establish our autonomy and to strengthen it in the future. Then the second thing that I think is important, and I'm always looking at the backroom, is money. I'm a money girl with all capitals here, and we all understand that funding has to anchor every dream, every business, every plan. And so looking at the funding changes that may concern the Council. I wanted to first look at the different Municipal Court functions that would initially be in place. And I believe that for the greatest part, the Court could make this change, and I don't think the funding would as the City change much; I think the same two part-time Clerk s with just restructuring duties we could cover exactly what we need and adding a Small Claims Court when Court is already in session anyway doesn't require any further time from the prosecutor as two parties, the recording or transcription services that is something that I believe Helena will guide us into some assist to some extent. They have an interest in Court uniformity and those records on appeal. So, ultimately, I think the Judge's salary may need to be adjusted as duties increase you would have a local Judge that would be able to issue misdemeanor felony warrants. I think those have been probably happen

very late at night. I don't know about how that sharing duties would work in a District Court. But ultimately, the salary may need to be increased; I don't think that's now. I think that the first two years of this implementation and the building of the Courts could be effectively done on roughly the same budget. Then I started looking at Grant's. I like Grants. I think that our Town Clerk got a ginormous grant last year, millions, and there are grants available for the legal system that I really get excited about being able to pursue. The two that I think right now that are getting the most press in the most funding are Drug Court, and one that gets me excited is a Veteran's Court. To be able to serve our Veterans better with the programs from those funds. We paint an incredible legacy for this City; this is one of the most patriotic cities I have ever lived in. We have a National Cemetery here, and we have a huge amount of veterans and families that have produced veterans. We also have a very high suicide rate, a high DUI rate. We have untreated veterans that we could serve better with programs that we could get grant money for. Because I know we need to keep this brief, I won't go much into the material I prepared about Drug Courts and their increasing effectiveness. Because at first, I was skeptical. But if there is something that looks like it can be effective and if we could get large amounts of money to try it... let's try it. We have a drug problem that is growing; we are a spillover from Billings in many ways and some of our categories of crime. And I think that being able to offer a Drug Court to Laurel residents, which right now, people commit crimes in Laurel excluded from the Drug Court in Billings we've tried many times, that may be very advantageous. Definitely, I think that the idea of a Veteran's Court would be incredible. I believe that right now, there are only four in the state. And we have again more veterans than any other state. I think that the grant money for those kinds of programs comes with even better services, mental health services, things like this. And all of the grant fund money all over is earmarked to further a certain program. All of this benefits the Court and its facilities as a whole. So I think that there is potential with those two directions now and many other grant opportunities later. To put the grant money into the Municipal Court, we need as it grows as it needs greater funding. But again I think now it can be done efficiently. And this is where we need to turn to the Court of Record because I believe that you know I only looked at about twelve different grants while I was preparing for this. And I don't know if Municipal Court is required for eligibility for any of these grants. But I would assert only the Court of Record could be realistically competitive for them. Again because of that trial-de-novo problem. These two kinds of Courts offering alternative path for conviction, and ours aren't not final. So that was short; I will move over to the Court of Record that I have drafted; I just have a few comments because I think this just takes some time to review and to digest. And the MCA Court of Record that guides us is lengthy. This Court of Record is meant only to give us the ability to supplement that MCA Court of Record. Those things that are important to Laurel. Again the latitude here is great; a City can just say there is a Municipal Court now, its up to the MCA that will bind us or putting a great deal of more structure. I hope that I have chosen mute ground here; I have very much kept in mind to keep this Court of Record flexible and scalable. I'm looking at what the Court may need in 10 years. I'm looking at the Court in 50 years, and for these reasons, I have a little bit of extra verbiage here that Billings doesn't. So the initial chapter, the chapter on City Court Court of Record, would be repealed entirely by the MCA ordinance, and the Municipal Court would be established. Cannot get used to bifocals. In the first clause of the establishment, it may be appropriate to add a date or something there a set date going forward because this is a working draft. Most of the Courts do have a date of inception, and I think we should add that, but we are a long ways away from making that decision. Then second Court of Record on jurisdiction, this is analogous to the City Court Court of Record, so everything previously allocated to the Laurel City Court would be handle by the Municipal Court. There is no exclusion of any current service. The jurisdiction would remain the same. The youth Court, all of this, would be handled under this new Court of Record. Upon the second 2.694.040 final furlough under Municipal Court Judges, number

3, I may have a true that should be revised. The Municipal Court Judge must be a resident qualified elector in the City of Laurel metro area is my suggestion for proposal to consider for the reasons discussed at the previous meeting. I think it's important to make the eligibility for qualified attorneys who may wish to sit on the bench a little bit broader than it is now. And again, I believe that it is less critical than it is for other positions in the City. I don't know if the greater metro area is the correct term, but I would suggest widening this up a little bit for the City. I don't know if opening it up to the County is right; we are in Yellowstone, and there is a lot of diversity of character here. So I do think that there are some reasons historically for keeping residency strictly in the City of Laurel, but I think it with our growth and the needs for this special qualifications of this office which should be broadened. It's just a suggestion. Clause number 6 is exactly one that of one of those Court of Records that I intend to service way down the road. This would allow an assistant Judge to be appointed, and this is analogous to the structure in larger Courts where the case just gets too large for one Judge to handle or if there is a health issue something like this we don't have to have a temporary pro tem on the bench. It can be an associate Judge who doesn't have the residency restrictions in this draft, but that may be something to add. But right now, that one person again looking into the budget could absolutely cover this position. Down the road, that will change, and will need more stuff that is added. The Judge pro tem 2.69.060 this just adds some qualifications to that position it removes residency entirely I think that it is important anytime a Judge is removed for some emergency basis with health or something like this that associate Judge may not be able to serve we would have to prequalify pro tem from any location that can serve the Court. So I think for that position, I would recommend removing any residency restrictions at all, but those are rare cases. Under the 2.69.080 Municipal Court Clerk, this is a section again that some Court of Record s they leave out and look entirely to the MCA. Everyone knows their duties in this type of Court; some cities, I find, do put more restrictions. I don't think this should be over lawyered; I think this administration personnel and hours are better handled outside of the ordinance. Still, I would ask you to consider just adding the hours to the Municipal Court Court of Record does require to Court to be open and serving the public during certain hours and would ask that the hours are analogous to the other City offices that are available to people to pay fines to get information during lunch hours. Again that is just proposed addition there. And you will find a Bozeman Court Court of Record that I didn't pass out that I did email as a sample something very similar that actually more it really goes into a personnel manual I don't think that is appropriate I think that Court of Record should be short clean and then refer to the other places where it's appropriate and doesn't be depictive. Under the public records now I have drafted through, which is very standard, the Laurel Municipal Court Clerk will provide public Court records upon written request and may set an appropriate fee. I think that is important we don't want to be eating fees, and this is a service every other Court charges for our discovery as well as Court records. But I wanted to note that with a Municipal Court and potentially greater funds, I found two City websites Great Falls which one but actually has a records request form online. It's great you fill it out online, you email it, they have a PayPal button, records are entirely streamlined. I think that could not only serve the people better but streamline Court functions better. So I think that as we go through these improvements, all of these are added to improve Court services with eye on the bottom line. Under the orphaned deposit of funds under number 4, this is a very rough draft because I don't in my position know the procedure now by which funds are held prior to final administration or adjudication, but this is only meant to conform with current practice whatever that is. 2.69.100 appeal to District Court this eliminates trial de novo or trial anew for no reason because now this is a Court of Record. Any appeal to District Court must be confined to a question of Law to an error; that's my favorite clause. The last point that I wanted to bring up that I can added is under "C" civil causes of action of civil the amount of controversy at \$1000 that would be our functional Small Claims function to be able to administer contractual

matters for people this would not involve prosecutor these are civil claims that two people file against each other in a Court of Record the appeal in these cases would have the same standard as a criminal case. So that is a summary of the changes. I believe that last time I tried to give a summary of the reasons and I have not prepared any further material due to interest of time I hope this meeting might be more interactive and also I have given you more material to consider. If you have any questions or if you may have any questions of our Chief of Police, I would be happy to answer those at this time. I am also happy to prepare any further material or discussion the Council would like to consider. I think this is weighty, and there are many issues ahead we need to look at.

Mayor Nelson: Council questions Council indicated they wanted to have this conversation tonight, so I hope there are some questions...Council Member Stokes.

Council Member Stokes: I have a question; it's about all this. It's about this.

Prosecutor Julianne Lore: Can you tell me which part of all of this?

Council Member Stokes: The part it is you're running for a position here in this town for you're running for the Judge's position is this correct?

Prosecutor Julianne Lore: This is true, yes.

Council Member Stokes: Okay, then why is this all happening right now? My question is why we are waiting until after election.

Prosecutor Julianne Lore: This is a great question. I appreciate the opportunity to answer it. Anticipating at the last meeting, I will cover this again as I know you were not able to attend. But I think that this is important at this time. For two reasons, and I also provided the minutes from the last session that I hope you may have reviewed, I thought I was more eloquent than I will be tonight. One of these is the City population at which Helena requires to we move to a Municipal Court status, and then the second issue really for timing is because now we are now at the end of a term. I think now at the end of a term is the time to consider changing the qualifications for that position and also at this point we are early I would hope that no one has spent a lot of time and money campaigning so there is not great time... I'm sorry go ahead.

Council Member Stokes: I have a question

Mayor Nelson: Council Member Stokes

Council Member Stokes: We've, people have already put their money in the hat. I mean, anybody can look at that, and we all know that. Okay, so we're going at this right now; we're looking at it, and we're wanting to change it. I think the best time to look at this is beginning of a term, not right at the end of a term. Would this disqualify our current Judge?

Prosecutor Julianne Lore: It would

Council Member Stokes: Okay

Prosecutor Julianne Lore: And this is the problem...is...

Council Member Stokes: She has already put her money in

Prosecutor Juliane Lore: So

Council Member Stokes: Why are we doing this right now?

Prosecutor Juliane Lore: I am doing this because if we have a person serving in this position who is unqualified and we have to make this change midterm, we have a problem. So, so that it is the reason there. But I'm feeling that we may be...you may be looking towards issues that are not on the agenda.

Council Member Stokes: She would be disqualified after her term for this all to change. If she did win...

Prosecutor Juliane Lore: That is correct

Council Member Stokes: She would have to...she would serve out her term, and we can then...

Prosecutor Juliane Lore: Not necessarily, if we can...obtain the information from the Census...

Council Member Stokes: It kind of sounds like to me that you are looking to obtain the same position she is, and you're looking to eliminate the competition. That has nothing to do with Municipal right now. I would not be surprised that Judge Kerr could not slap us with a lawsuit if you let this stuff to go through.

Mayor Nelson: Um...could you...

Council Member Stokes: Cause we are in the middle of an election. We have four months to an election she submitted she's put her money in.

Mayor Nelson: Council Member Stokes, we are not letting anything go through; this is a discussion brought forward by one of the Council members. But, there is no...

Council Member Stokes: I'm all about free and fair elections. This stuff right now is not fair to the current Judge.

Prosecutor Juliane Lore: I respectfully disagree. I think that the previous presentation that I gave, I hope, carefully renumerates...

Council Member Stokes: I did watch it.

Prosecutor Juliane Lore: the Municipal Court of Record and how that will operate as our, as our town grows and I guess would put out the analogy let's say it is too late to withdraw... let's say I get hit by a truck this needs to be considered.

Council Member Stokes: That is not somebody who you are campaigning against your going against in an election.

Prosecutor Juliane Lore: Yes

Council Member Stokes: Try to sabotage getting hit by a truck is different than sabotage; that's the way I look at it

Prosecutor Juliane Lore: I understand...in your position. The only reason I am trying to elevate it that Court on record is to is to get elected. I promise you it's a huge pay cut. I truly I am only looking at ways to serve the Court. I believe I have enumerated the many reasons it is important to have a Court of Record and have it at this time and that to make this decision before the next term is important. I understand that you have the opinion that I am doing this out of some personal nefarious motivation to take the bench. I assure you it's not true. I hope that I have provided enough sufficient reasons that can answer that inquiry.

Mayor Nelson: Council Member Klose

Council Member Klose: Thank you, Mr. Mayor. I agree with Council Member Stokes this issue should not have been discussed at this time; it should have been brought up last Spring before we started the registration for any office elected office whether it was for City office, Mayor Judge, or whatever it should have been brought up and taken care of at that time or waited until after November election has ended to discuss as this is not the time to change the rules of the election this should have been done a long time ago so as far as I am concerned, we should not discuss this anymore until after the election. Thank you.

Mayor Nelson: Thank you very much. Are there any Council comments or questions?

Mayor Nelson: Council Member Klose

Council Member Klose: I just want to clear up one thing. I will have to review some more of this material. I'm not saying that I am against changing from City Court to Municipal Court right now, but this is not the time to make that decision. Thank you.

Mayor Nelson: Thank you. Council Member Herr.

Council Member Herr: Just a question to the last time you talk to us, you said something about the State required the 10,000 population?

Prosecutor Juliane Lore: Yes. Per the MCA...

Council Member Herr: We are at seven and have been at seven for umpteen years and going down or up we are we could be at ten next month, but that is very doubtful. It's going to be at least a couple of years or more. I would say even if the gas thing comes through here their only going to bring a couple of families, and here we are; we are still trying to figure it out. I agree we should wait. Thank you.

Prosecutor Juliane Lore: If I may address that...and your comment is well taken, we don't know what will happen with the census results we don't know what will have with the population in the next few years. I brought that up because I think that choosing under directive under Helena is probably something we don't want to be in a position to do. And any Municipality that has reached a

population between 5,000 and 10,000 under the MCA may elect to become a Court of Record under Municipal Court of Record, so it is trying to stay ahead of the day when Helena does send us that directive because now we are in a period of time where could elect to make that decision ourself if that clarifies that at all.

Mayor Nelson: Any other Council comments or questions?

Prosecutor Julianne Lore: There is actually one note in the Court of Record that I did forget to bring up and that one is Officers of the Court and I am bringing this up as I do believe that Stan is here and was asked to prepare a brief statement on how Municipal Court of Record could help the Police be more effective immediately but at the statue Officers of the Court this is directly echoing the MCA just states that the Chief of Police is the executive officer of the Municipal Court and with the approval of whoever is on the bench shall appoint Police Officers as Court Officers or a bailiff and this seems duplicative when I first read it because I think this is the current practice just informally however there was a trial recently where the person selected as a bailiff I think it's that the lady here so that was this lady and she was very knowledgeable about the Court she was unarmed she was not in uniform and so I would assert that a bailiff is a law enforcement function is a City Court function and for that reason I put in the Court of Record indicating here that per the MCA that the Chief of Police would administer those functions under this proposal. Thank you.

Mayor Nelson: Any other Council comments or questions? You indicated that you wanted to have this discussion tonight.

Prosecutor Julianne Lore: If it's appropriate at this time, I would ask Stan to present the material that the Mayor asked him to prepare. I think it is very brief and won't take up too much more of your time.

Chief of Police Langve: Mr. Mayor and members of Council thank you very much. Yes, I will make myself available to have any input I can. There again not my area of expertise but just my understanding of things the end of the last Workshop; I spoke to the issues as far as the question being will there be any benefit, and so I attempted to write these down so as coherent as possible basically, the biggest thing is we went over search warrants and having attorneys going in for search warrants and the basis of search warrants if they lead to something else there is that possibility if you are going for a misdemeanor warrant on something you having a solid foundation for going to if you come across felony items the next thing is with re-trials obviously if it is Court of Record if you have no...it just goes up you just have the one trial the Officers subpoena noted the call- out time for them if you didn't have that it would be the cost savings there. Don't know that you know trail of cases coming back get re-trialed or if just go away at that point, but to answer the question of what was posed to me, that was my best indication that's what it is.

Prosecutor Julianne Lore: I would just add to that the Court of Record that I drafted again this is analogous to the MCA would give our local Court the bench the ability to issue misdemeanor and felony warrants. Right now, we have no way or means to have the ability we must contact Billings for felony warrants; we would have the ability to write any warrant that we need for any crime committed in Laurel with this change, and then the other changes that I think would have impact on the Police that it would arraign felons in our Court we would have that same in the Justice peace Court function so I would just add those things aren't in the Court of Record in August as to what the Chief has presented.

Chief of Police Stan Langve: I can't speak to that because it's not mine, but it's you know if that would be a benefit then absolutely.

Mayor Nelson: I believe you have brought everything to the Council that was asked for last Workshop on this matter. I appreciate you bringing that they have the reference in that they were interested in. Council Member Wilke.

Council Member Wilke: Thank you. I do agree that there are some shortfalls in the ability the Police Department to do their job by getting a timely warrant getting one that will do its job if need be, go to a higher Court, and be upheld. As an official warrant issued by any official Court that concerns me being former law enforcement I dealt with a lot of warrants, and they're very, very important tools to the Police department, and I am concerned that we got to make sure that tool is given to them; however, this probably is not the right time to be addressing this situation we should have probably did it like said before right after the election or right after the next so is kind of what I am thinking. Thank you.

Mayor Nelson: Thank you. Any other comments or questions? Thank you.

Prosecutor Julianne Lore: Thank you for the opportunity to present more material this more interactive meeting and for the attention that you have given this. I intend to pursue this. I definitely respect the timing issues that you've brought up. I disagree. I think that now is the time, the decision is certainly yours to make, and if it is appropriate to push this question off until after the election at that time, I will bring it again; this is important. We need to build the Court; perhaps the election timing is causing this concern. I think this should be addressed before the end of the year, and I hope that you will keep the material, and no matter the vote, you will give me this opportunity again. We must build the Court. I want to make it a Court, a legacy that we're proud of. Thank you.

Mayor Nelson: Thank you, Ms. Lore. I believe the Judge would like...

Judge Jean Kerr: I know you don't talk about this anymore, so I will try to keep this brief. I did...or I should say...Jean Kerr...and I am here representing the Laurel City Court as Judge I did give packets I have copied off the City Court Montana Code Annotated for City Court of Record as well as there's other paperwork that is also included. I did make a Court comparison sheet so that you can see exactly what, what, different issues have been brought up when I saw the last times of the 6th of July; I watched that extensively and several times to look up all the information that was being given and rather misconstrued and so with that in mind when there is a Court situation when there is a City the people are, you represent the people, the Court also represents the people and including Courts of limited jurisdiction have a highest caseload across the State you see way more cases than any other level of Court in this State. I have been on the bench for 24 years, so with that in mind, I have never missed a school I've been to 40. I will...in September, I will have taken my 48th class that is mandated by the Supreme Court taught by Judges and other experts, but we get our schooling, and also we have all the stuff that gets sent to us all the time via the internet as far as cases and how they have been ruled on so then that's how we interpret the Law for there. I do take offense to the statement that I am not qualified; I am more than qualified and that I am not a stupid person; just because a bar person holds a bar card does mean that they good attorney, just like a person who is a driver, that has a driver's license doesn't mean they pay for their insurance doesn't mean they are a safe driver same kind of thing. When we look at these things, there are were of comments made

during the presentation last week that I need to clarify, one thing as soon as I walked into my Court area then next day after this...oh let me back up...during this session on the 6th of July when this was being presented, I was in this building I had no idea that this was a topic. The only time you ever see me is if I need to get some information or I hear that I'm being talked about and I'm not invited to the party. Because that doesn't sit well with me. I was over in my little Courtroom processing a temporary order of protection for a person who, she was scared to death, shaking, and she was being stalked. So I'm over there doing my job at the same time somebody is over here tell me why I shouldn't even hold my job. That doesn't sit well with me. And the way it was put on the register of action that Workshop nobody knew was being talked about, well, potentially the Police Department cause the Chief of Police was here and, and I don't know who typed up minutes for the notes for the thing I had no idea. It was a shock. I got home from doing that order of protection, and I had phone calls and emails saying watch the Council meeting. Get on there and pull it up on Facebook. It was quite the surprise. When I got back to work the next day, the first thing my Clerk said was she said that she said that we can have small claims Court here, and there's been a big controversy that people have read about in the paper things disclosed that shouldn't have been disclosed and by someone who supposed have the ethics and the knowledge not to release that information and so for my Clerk s to be...for me to be told that my Clerk s are not proper they cannot sit in my absence that have been very minimal exposure to the people and they picked up on a mistruth that was given by someone who has a bar card I was really offended and was so tickled that they immediately said ya, she says that they could do small claims. Mistruth, you can see on these Court comparisons the Laurel City Court says, and if Laurel City Court of Record say things the City Court, it's just that we have a tape recording the process, all the proceedings. Laurel Municipal Court has to have an attorney. Justice Court does not require an attorney to sit on the bench; even a Justice Court of Record does not require an attorney, District Court does. If you look, I am looking at the one with the term in length of years...Ms. Lore made a statement that she thought the Judge should have a 4-year term instead of a 2-year term; if she has done her research, she would realize they are all 4-year terms. I'm up for election this year; next year is for Justice of the peace...they switch, just like half of you are up for election this year the next time we have the election, you folks are up for election. So that was a mistruth. Laurel City Court ordinance says, "Laurel City Court calls a Court of Record or if there's Municipal Court have exclusive jurisdiction over our ordinances and any enforcement of that. Criminal Law, so you're looking at traffic, drugs, theft, partner or family member assaults, that sort of thing we have jurisdiction over all of them. Just like you can see goes straight across by graph. Civil Law that is contract kind of things, or maybe something that two people are arguing over a contract, an agreement something like that we have a \$12,000.00 cap. If you read the 2019 Codes, which are the only ones in print right, you will see that is a \$7,000.00 cap, but they increased it this year at the legislative session, so know I have my cap is \$12,000.00. Any suit that is brought before me has to be at that level, \$12,001.00 goes to District Court, but we cannot be a Court of small claims. And I don't care if Ms. Lore says that \$1,000.00 is a cap; it is not okayed by Municipal...I mean Montana Code Annotated, and you need to look it up if you don't believe me Justice Court is the only small claims and then if there is an appeal, District Court, period. Nothing else, and you can't even call yourself a small claims court, there are certain rules and certain procedures that only Small Claims Courts can do, no other Court. And so that is a mistruth. Initial felony appearances at a hearing, technically, if you read the Law, I can do them too. I have never done them; we are not a Court of Record, I don't want that responsibility; if I had anyone in my Courtroom, I will say "sir" or "ma'am" looking at your citation and looking at your history because I will get a traffic history sometimes criminal history I will put them on notice and, and I will say "this is my fear, I fear that you are at a felony DUI level" and then I will send them off to book them in to be put on a docket two weeks out I give the case, or Clerk s give the case to

the Police department and then they are told we think this is a felony. Then the Police take it down to Prime Time and if you read the Law and Ms. Lore said so too, she put through that initial appearance on a felony, but that all gets bonded over and down to District Court. District Court handles felonies. So initial appearance, yup, I can do too. I don't want to do it; I'm not a Court of Record, and I'm not going to mess around with a felony that potentially get mixed up due to potential error.

Landlord/tenant, we don't do them, Justice Court, Justice Court of Record, District Court that's landlord/tenant. Kind of a civil case but not my jurisdiction. Orders of protection, you see that and is also temporary orders of protection, small claims...nope...trial-de-novo, that's been a big issue. If you are a Court that has not been recorded, then if at the end of your trial you think, yikes, you guys got that wrong. You can appeal that up; then its trial-de-novo means a brand new trial. If it's a Court of Record, a person can still appeal it. But it goes up with the recording, the transcript, and any other paperwork that is filed again. And then next level of Judge looks to determine if there's error or not on behalf of the Judge. Ms. Lore was right, there..... I will be honest with you; in the last 4 years, we have had 3. Ms. Lore did state that on her very first day in Court, she saw one. That is true; it was a case where there was a person who was really drunk, and there was the concern that she went into Walmart and stole as well; she was found guilty. I remember it too. And the other two cases, our attorneys who always know that have a bad...have a DUI they know it's going to be really hard because it's the same attorney usually. Then they have an events trial, and as soon as that person is declared guilty because all the elements are proven, there like Judge here it is. We're appealing it to District Court...trial-de-novo, they got the paperwork to be filed, then I say "go over to the counter and file it with the Clerk s," and off they go. Often then it goes up to District Court, and then usually there isn't a trial; usually, there is some kind of negotiation, its often the ploy. Now Ms. Lore said, "it's the bad guys that are in the Laurel, and they know that the Police don't have any ability to do the Justice and so the good people that don't appeal their cases," nope, I disagree with that, and for 3 or 4 years that's very very low. I talked to the Justice of the Peace in Stillwater County; they're a very active Court too. Justice of the Peace's don't have to be Court of record. But, I...but, they have to be Court of Record for small claims, they have to be taping that verbiage and keeping that record straight. His prosecutor came up and asked him if he would please consider being a Court of record, he said that..."what does it do for me?" There's a lot more work, there's going to be more Clerk time and more Judge time, of getting things in and getting that recording and writing down those little numbers and all that as far as what case goes with what and separating it out, but it can be done. Red Lodge Justice Court, Judge Nichols, just made his Justice Court a Court of Record and then the City Court in Red Lodge also became Court of record. They said they would help me if that's what I wanted to do. I brought this up about ten weeks ago to the Mayor, and I was told that now is not the right time to become a Court of Record. Court of Record would not do anything to eliminate anybody from the role of Judge. We all go to small claims...I mean, we all go to Montana Supreme Court School, even District Court Judges. By the time we're done with school, then the District Court Judges have to go to school because our person who gets the school set up through the Supreme Court is busy trying to go on to the District Court Judges if that is a smaller group, they usually get to go to Fairmont. But otherwise, they go to school too, and they are all attorneys. We do...I have the ability to do search warrants. The last search warrant I did was in 2017. Officer Huertas had me do it. I've done search warrants in the past. That is a policy that is then declared by the Police Department. Also...I can do those telephonic blood draws for DUI's when I came back from school. When that Law was initiated in 2019, I came back, I talked to the Chief, and he said, "We already decided that we are not going to have you do those blood draws for the DUI's because there is a big list down at the jail and we'll just call up one of the District Court

Judges.” Because I had gone and talked to him about what kind of recording device I should get when they call me up at night to ask for that blood search warrant. And the reason why you have to have a search warrant for the blood is because you are gathering evidence, and Montana has the highest expectation of privacy in the United States, every time that we go to school. If they talk about search warrants and privacy acts, and they always say any exception is Montana. Because it’s that much higher. And so truly, I have a landline that is hard to tap in to. And I was going to get that tape recording machine and get everything going and, and that was not my decision, and so I just said okay. But that is a mistruth, that as far as, the ability to do those search warrants. And I can do any kind of search warrant, a misdemeanor, or a felony. I, in fact, called up, I was going to talk to Chris Morris, who is down at the City or he is the County Attorney, couldn’t get old of Chris. But I did talk to Brett Noon Webber, he has been an attorney for years. He told me that he holds the biggest or has the heaviest case load for the County, all family crime. And also has a lot of junior attorneys under him that he guides, as far as an administrator. He said that he has never heard any of my search warrants being kicked out because I am a Court of my own record. He went three terms as the County Attorney in Livingston. They had City Courts that were not Courts of record, Judge Anglin and Judge Neal Travis. Those were the Judges that he learned under, and they were sworn in to cover each other for search warrants if there was ever the need. One was a City, one was a JP and not Courts of record. He also said Park County was looking a tiny little entitled like Clyde Park, Cooke City, that they were itty bitty Courts usually traveling Judges. And he said everything holds up. There is something called the “four corners” of a search warrant. As long as you have the “four corners,” it doesn’t matter what level of Judge you are; it’s did you do the job right. And that’s what you have to do, and that is all done in chambers; it’s not done in open Court. And that is very clear, in the statute, as well. The...If you look at this paperwork, it’s all very clear there. I believe that if there is going to be a change, then it needs to be done with the approval of the City residents. That is, it is, there is a constitutional responsibility to the citizens of this town. I have put in the County Settles of Landa that is Judge Landa out of the County of Powder River. And in 2019, County Commissioners were decided they were where going to reduce her hours as well as reduce the pay during her term. You can’t do it. So, she told them, and I know we talked about it at school. And she warned them and told them and warned them and told them. They did it anyway, and she lawyered up. And there was a lawsuit, and the County lost. And there is \$19,000.00 in attorney’s fees that had to be paid by the County, and she won. And they restored her hours, and she even got a raise over it. The District Court Judge did state, in words it says that “time spent in the Justice of the Peace office didn’t change when the position went from a full-...part-time to a full-time job, still only available in the office only 3-days a week full-time status was not warranted as far as the Judge being there. Powder River County's population suddenly decreased. This is what the commissioners are saying, so it’s a larger burden on the taxpayers. And in the future, had budget concerns and the public concerns were office hours and Justice of the Peace, that the Justice of the Peace was not in the office. And that the County shared the revenue, but the Justice of the peace have gone steadily down in the last five years. Then when there was the Judge’s thought process, he said that “under article 2, section 8 of the Constitution...the public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to final decision as provided by law”. And that needs to be considered if you are going to change anything around here. We have a Charter System. We have people that voted that in, we used to have a Mayor system, we got the Charter system that we are supposed to have a CEO, that was to be voted in every ten years you are supposed to have a governmental view. At time, if people want to re-look at the structure of our government, that is the time you do it...you have your study, and the people vote on it. This is a similar situation. Ms. Lore had represented that it can be done in two sessions...ya, it could. You could eliminate my position completely, and then she would be the only

candidate. The thing that is wrong, too, is that she is referred to as the City Prosecutor. She is a judicial candidate running for office. She is not the City Prosecutor when she is doing this stuff. She falls under judicial ethics now because she has her name in the hat as well...they are higher than attorneys have to be. With then being said, I will tell you that since...as Mr. Stokes said and Mr. Klose, this job is put before the County and put for the ballot it's City Court Judge the names are in the hats the fees are paid, that's the election. And if it changes to the Municipal Court, there will be a lawsuit. Because it's not and for anybody to consider it their also not doing a service to Ms. Lore. Because it is a violation of the elections practice. And so, it is not okay. So would also think about also are you setting someone else up for an ethics violation. And once again, I am rather a little bit chapped that she uses and throws ethics around, and there was something in here about a moral fortitude and being humble and mature. Well, I'll tell ya...there is also ethics about telling the truth. And if you are going to try to sway somebody just to do one thing as far as a Municipal Court, that's not okay. There's options, and you, you disclose the options, then you prove what your option is the best. I have had grants. I tried to get a drug Court here. Chief went with me, there was a parago, there was Officer Firebaugh and myself, and there was an attorney that ended up moving to North Dakota. I got a \$40,000.00 grant. We went down to Georgia, and we were in Atlanta, and we were there a week for training. Got home, the money was gone...it was all dried up, but we were ready to roll. I can get those grants too. And so don't be swayed that thinking just because someone has a bar card that what they say is the truth because it truly isn't. And this whole action, I feel, was meant to eliminate me before people even lined up at the starting blocks, and it's, it's not okay. Yellowstone County residency that's one thing that she has talked about as far as Laurel. When I first started this position 25 years ago, everybody who worked for the City was supposed to live in the City. I remember when we had a Clerk/Treasurer, and she was given a year to find a house in town. And she didn't want to live in town. She had animals, but she rented a house in town, and her husband had another house outside the City limits. So, if you want to change it, that is fine, a lot of it has changed. I remember Mr. Redman had to buy a house in town, and yet as a kid, when we would go over to the house, he lived out of town, but that was after he had retired. And I think the thought process there, and I maybe totally washed up, the think the method of the madness is that if you live in a town you support it you pay for the water, you take a paycheck, and you usually go to the local bank, you usually go buy groceries in town. And you watch the kids in school, and you hope that they are safe at the park and a few things like that. You've got a vested interest because you have to look at everybody in the eye the very next day. And so I think that was what the thought process was, but I don't think that was a bad thing, and there are plenty of houses around here that are for sale. So a person can live here as well and drive on the chuck holes or get lost in the chuck holes, I should say, and everything else as well. Or have the concern like Mrs. Fox had and then buy Culligan water. I also found offense by the innuendo that if you are a resident here and you know people, then you have the tendency to not be fair. I've had to know lots of people before me, and it's hard because you have to follow the Law. You have to have those elements proven. But also, at the end of the day, if you do that, and you exclude excellence of how you live your life, then people look at you think, okay, I messed up, and it's that. But then also think it helps when you leave it in the Courtroom. So when you go to Walmart, that same person will approach you, unless they are ducking, because their case hasn't been done yet. But then you can talk to them, and then they're like, thank you for treating me fairly. Cause that's what I get a lot, and I'm also looking at them in the eye because I live here. I am a qualified candidate and a qualified person. I've got to be honest with you, and this may be cocky, but I think if I took the section of the Bar that I work with every day, I bet you dollars to donuts I would get a 90 or higher because I know it. And I've had to try to steer her, and it hasn't worked. And I've asked for help about that, and it hasn't been okay. Pro tem, I hear a lot of that, too. The Law does not have specific requirements in some of the jobs.

And if you go to any of these other Courts, sometimes even in District Court, the secretary sometimes be handing the Mayor, I mean, the attorneys their paperwork. And my Clerk s are very, very bright, they're very, very loyal, and they do not do anything that is not proper or ethical. And so, to have a big concern about a Clerk who has their initial appearance or arraignment and not to anything about trials and hearings. It's pretty bad when there is an outrage saying this is not okay, especially when it is condoned and okay by the Law, and my Clerk s go to school twice a year too. And they once again, the next morning, I walked in that office, and they are like, "small claims, but she can't do small claims." And I said, "yep," and I thought here are two Clerk s that don't have bar cards, but they knew the answer. And so, that needs to be looked at too. Nobody would be in Court and not do a good job. And also, there was a residency thing that Ms. Lore was talking about as well, not having the pro tem Judges have to residency. If I need a Judge to sit in on a case if I have to recluse myself, Judge Cornell has been over here quite a bit lately. I used to have Judge Anderson out of Red Lodge come over. She has since retired. Judge Schara has come over before, out of Joliet. Judge Kraft, out of Bridger. They come... Judge Seykora out of Hardin is going to come over an issue. And they're over the City of Laurel, there out of Red Lodge, I mean, Red Lodge, Stillwater, they're all Stillwater, Carbon County. That was bogus too. She said that no one would want to run against me for 25 years. That's not true either. I've had people put their name in the hat as well and ran against me. It bugs me that someone makes statements and doesn't even check it out. Especially when someone is here that can come say, "Fact Finder." The basis for the current classification was based on the Census. I looked. I looked at two different things. I looked at the World population they said that Laurel's population was around 6,700 and gone down 2.283% from the last Census. Then, there was another set I looked at, and it pretty much stayed the same. But the growth rate for Laurel for the last ??? years was 1.97, so we are not going to be worried about 10,000 people here right now unless the world blows up and all of a sudden everybody runs for Laurel. And so we do have time to make a decision if you want to do the Municipal Court, but I would also caution you to go ahead with caution because if it goes before then next term... there will be a lawsuit. I'm just telling you that I'm not threatening or anything else. I'm just stating the fact, because if it will be done illegally. The Law states the Judge will end the term and finish it out. But the thing is, is that the election has already started. That's the kicker. She also stated the first time on July 6th that this would be a part-time job and that the Judge's job is part-time. She's right; it states in our ordinances that the job is part-time, but yet I'm paid for an 80 hour week, and I'm here a lot more than that. What the people forget is that I do a lot of civil work you think that what they just read in the paper, the Outlook, that's the criminal stuff, speeding tickets, dogs at large, kids smoking cigarettes that' snot all of it, I have a lot of civil things I do too. And this is a full-time job, and you can't argue it any other way. And, in fact, this budget, I put in for two full-time Clerks. My Clerk, I have one full-time Clerk and one three-quarter-time Clerk, and that was also something that Ms. Lore made mention that I had two full-time Clerks, not true. She doesn't even know how the Laurel Court structure is. Basically, once again, I just to copious notes as far as her making statements that were not true, and I think that anything you're looking at search warrants and these sort of things and that is something and when we read about search warrants they even state that is one of the best tools a Police Officer can use. But, think we have done here it's just a matter of the Police and, as far as, a bailiff. The very first thing I do when I have a jury trial that is confirmed is I call the Police Department, and I ask if anybody would be a bailiff. Because we have a core group of men and women that are on the Laurel Police Department, they are in the streets. So they're not going to be a bailiff. And so then I ask about the reserves. The reserves have their own jobs, we're blessed with the Reserves, but they are not always available. But then, I put it out to the public, but then I am very careful about who I ask to serve as a bailiff. There's no gun, there is no clothes, but still, there is order because of that bailiff. And like I said, I am very picky because this Court

reflects on me, but it is also to serve the City and its people. So, that's basically what I have to offer. And just to give the guidance that if you want to change the Court in any shape or form, I would look at the City Court of Record. Because that includes a lot of different people that can run for election. It doesn't eliminate anybody from the position. That can happen tomorrow if we have the proper equipment. I have also inquired. I'll be honest; I'll probably be bringing it at a later date. But we will need to move; there is more violence. It's all reported by the Police. Well, I've got pretty close quarters over there. I usually bring my practitioner over at the back door, and I say if something happens, you get out the back door. But caution, you're in the alley. I also don't want the liability for someone to get hit by a car. And then I say I'll try to get this person out here. I am not a bailiff. I have pepper spray, and I have a taser, though; I am trying to man-handle someone trying to get out of control. And yesterday, I had the man that was a stalker, remember that lady that was my in my Court on the 6th, and he was a spook, and he won't quit stalking. I saw how he acted; I knew I can read people pretty well, I was concerned for that lady. And we were very close quarters...it's not okay. There was an evaluation where we are put that was deemed; I don't have Chambers, I don't even have a door, I don't even have a full wall. My office is shared with a copy machine; it sounds like the third-rite sometimes when making copies, it sounds like the army marching through if I'm on the phone and as the water is in there as well, and we have motor vehicles in there once again those walls are not complete.. once again we have a problem with keeping things on private, and we have confidential information. So we need to move and we also the area to be apart as well. We use this area for on jury trials. And I will sneak over here if we have large trials and have people coming in to testify. We were here until 1994; I started on the bench in 1998, we were here until 2004 when they have to remediate this building for mold. We got sick, two of us had to have sinus surgery. And we have not, and this was suppose to be temporary so. You are using this part of the building every day versus two part-time, and there is room over there. And when the two girls come over from the County, there will be room because the Courtroom we would have would still have the area to have their meetings with LURA and all that, and that is a need here. The only other thing that I have to say is that assets...people are assets, so when I hear that is the issues that we are not talking about, but there is the elephant in the room that isn't being dealt with. Just know that if I lose Clerks or anything like that, I will be very sad. Cause I have great professional, very bright, very talented, and very loyal to this City group of Clerk s, and that kind of stuff is not being properly addressed and just continues to be put off on the back shelf. I lose those Clerks, it will be a sad day for the City of Laurel, besides the City Court and I hoping that gets addressed too, as they are assets there not just people who just get a paycheck, they are assets, and they do their work, they just don't get their paycheck and cash it. When other thing I want to say about this Court of record, I have had problems with an attorney who is tape-recording the sessions; there is a law that can be deemed that a public official can be recorded. I read it, it's true. I take it more like at Council meetings or at weddings, things like that. This attorney tape records my sessions. I am ride through those rights every day; I tell them they are not recorded and take notes. And I show them a pen and paper and that because I am a Court that is not record as far as that electronic device. Then those people are not even questioned if they are okay with being recorded. I've jumped the person several times I've reported it, and nothing has been done, and I would like that taken care of as well, and it is known, and an outside person has even told me that they have heard the dialog, and they told me I have handled things well, but they were also surprised at the amount of tape recording and the amount of bantering I get that because of the situation that was never handled. So I am asked that there is many issues in the Court that are not being looked at properly, and yet this was meant to eliminate and not to enhance this City. So, thank you. Is there any questions?

Thank you.

Mayor Nelson: No questions from the Council for the Judge? Hopefully, you got all the information you asked for.

Laurie Fox, 914 12th Avenue, I just wanted to let you guys know or while you were aware that Ms. Lore did know that she was going to speak first that she was second, and she spoke first and left. She did not even stay to hear what Judge Kerr had to say. And I thought that was very unprofessional. Fully appreciate it, and I know it's a late hour. But she took off right after, so...thanks for hearing me.

Mayor Nelson: Council Member Herr

Council Member Herr: Asked for a restroom break and that the air conditioning be turned back on.

Clerk/Treasurer Langve: I will turn the air conditioner on. But I want everyone to know that I told Ms. Lore to leave.

Clerk/Treasurer Langve: Yes, I did. Because she had things that she needed to attend to and she asked me to go over there, and she asked me if it was okay for her to leave. And it's private things that I am not going to tell everybody, and I told her it's okay to go ahead and leave if Council has any questions that can be addressed at another Workshop.

9. Camping Update

Kurt Markegard, Public Works Director, stated that last winter, trees were planted. They installed sprinklers to water them, so they didn't die. Last week he was prepared to pull the signs down and open the campground. Williston Basin has pipelines that run through Riverside Park. They feed natural gas to Laurel. The campground was designed not to have to be deconstructed when these lines needed to be worked on. They are currently working on replacing those lines. They requested the campground remain closed and were willing to pay \$13,500 for the campground closure. They will also be paying \$1500 for the ash tree removal. There are two cottonwood trees and one Russian olive tree that will also need to be removed. They will replace one line and then the other. They need to have the work completed by October 1, 2021.

Mayor Nelson stated that he would like to see this money spent on other improvements in the park.

It was questioned if they will make the area they need to tear up look pretty again. It was further questioned if they would replace the tent space. It was clarified that they would. It was further clarified that the City did not ask for reimbursement for the campground closure they offered.

10. Exxon Money Update

Bethany Langve, Clerk/Treasurer, stated that she has invoiced and received \$345,272.94 from the State. The City has approximately \$14,000 left, and there are plans to put in another vault toilet in Riverside Park. To-Date, the City, has not heard from the State if there is any other funding available.

11. CARES Spending Update

Bethany Langve, Clerk/Treasurer, stated the City received just under \$1.1 million back for CARES reimbursement. To date, the City has spent \$134,945.06, which leaves \$965,054.94 remaining.

The Mayor is currently working on a remodel of the Police Department area and installing sleeping quarters for the Ambulance crew. Other projects already done using CARES funds were air conditioning for the Ambulance Department, purchase of new police vehicle, tank for the Finance Department, command vehicle for Fire Department, brickwork on City Hall, and a vehicle for City Hall. The command vehicle is going to be \$79,508.00. The police vehicle was \$21,194. The two remodeling projects will most likely be significant.

Council was reminded that the CARES funds were reimbursements of expenses that were allowed.

12. Urban Route Update

Kurt Markegard, Public Works Director, stated he called Katie Potts, the Public Transportation Planner. The balance for the Urban Route fund is \$4.1 million. It is expected to receive another \$200k to bring the balance up to \$4.3 million in October. The estimate for W. Railroad was \$4 million to \$6.9 million. The State is still waiting for the City to commit to funding the gap. Council needs to vote to fund the gap. The City needs to identify where those gap funds would be coming from. The street will be built to meet the urban design code. There will be a curb, gutter, stormwater, water, etc. If there is any water or sewer, the City would need to pay for those improvements. It is anticipated it will take three to five years once the City agrees to fund the gap. During that time, the Urban Route fund would continue to group by approximately \$200k each year. The City could also request a five-year advance of Urban Route funds; however, this option may not be the best option. They like to use that reserve for contingency should something happen.

It was questioned if the Urban Route funds could be used anyplace else. It was clarified that the Council authorized the Mayor to send the letter to the State Department of Transportation stating W. Railroad is the number one priority for our Urban Route Funds. The Urban Route Funds cover not only City streets but County as well. If there is any portion of the Urban Route in the County, the County can also apply for that. The County Commissioners have approved of this project.

The Public Works Director has received at least two emails from the State wondering where the City is moving forward with this project. The State may choose to do the design work internally or hire an engineering firm to design the road.

Mayor Nelson stated that Council needs to have a better idea of what the gap funding is currently. The estimates were given three years ago. There have been changes to material costs.

Matt Smith, KLJ, stated that the cost of construction had increased considerably recently. Those resources are fairly scarce. They are already having issues obtaining the pipe needed for projects. It is anticipated for the next few years, there may be a dramatic increase in construction costs.

Options for funding the gap include the TIF District can bond again. Street Maintenance can also bond. There are also street maintenance assessments. There is also ARPA funding that can be used

on infrastructure. There is currently \$1.7 million in pot A and a little over a million in pot B of the ARPA funds. Pot C is a competitive grant.

It was questioned how much infrastructure is under W. Railroad. Are there water and sewer lines? It was clarified that there are both water and sewer lines under W. Railroad. The sewer lines start at W. Railroad and run north/south. They collect under neith the interstate and head to the sewer plant.. It is recommended that the waterline be extended from 5th Ave out to 8th Ave. to allow for growth. The enterprise funds can pay for this portion of the project.

Mayor Nelson stated that he believes Council could do both projects; it's a matter of the best way to fund them.

It was clarified that the TIF District is set to expire on a specific date. If the City wants to bond again, the bond must end by the time the District expires. The TIF District must also have enough revenues to support an additional bond.

Clerk/Treasurer Langve stated the Water Fund has \$3.4 million sitting its reserves. The Sewer Fund has \$2.1 million.

It was questioned what percentage is expected to be spent on S. 4th and what is expected to spend on W. Railroad. Can both projects be paid for out of the Water and Sewer funds?

Right now, the City does not have exact numbers on what these projects will cost. Those scenarios have not been run yet. That is what this task order is going to do.

The Public Works Director asked KLJ to break up the Task Order into what will be water, sewer, and street maintenance. This should help clarify the funding for S. 4th Street.

It was questioned how much the reserve funds grow each year. It was clarified they increase by approximately \$400,000 each year.

It was questioned if these projects needed to be done one at a time or if the City could do them simultaneously. It was clarified that they would not be done in the same year. W. Railroad will take at least three years to begin construction. The Urban Route Funds will continue to build during this time.

Council was reminded that Water has a replacement and depreciation fund. Should there be a catastrophic pump failure and that pump cost \$130,000 to replace, it would come out of this fund. The TIF District has over \$2 million in its cash account.

It was questioned if the TIF District can bond another project with its current debt services. The Clerk/Treasurer stated she would need to speak with Bond Counsel before responding to that question. Council noted they would like that information for the next Workshop.

When 8th Ave was redone, the City paid for water and sewer improvements.

The Clerk/Treasurer stated that Street Maintenance could take out a bond. The City can also use the street maintenance assessments. It was questioned if the City has those amounts. It was clarified that

the Public Works Director sets that annual and Council approves the assessment. If Council would like to bond, she would need to speak with Bond Counsel.

Council asked for clarification between street maintenance and pavement maintenance. It was clarified that they are the same fund. It was further clarified that the street maintenance fund would pay for the proposed task order. It was further clarified that in order to bond, part of the street maintenance assessments would be earmarked to pay the debt service amount. The Clerk/Treasurer stated that she would get ahold of Bond Counsel and have them run the numbers from the last several years of revenue.

The Public Works Director questioned if this Council agreed to fund the gap with a Street Maintenance bond that bond wouldn't be needed for a few years down the road. Would this Council be voting for that Council? It was clarified that this Council is saying yes, we want to do this project, and we are committing to come up with the funding. That commitment could be a month from now, or three years from now, regardless the City is going to come up with the funding.

Mayor Nelson stated that he would bring this item back to the August 3rd Workshop for further discussion.

It was questioned if a project needs to be shovel-ready to apply for the ARPA grants. It was clarified that pretty much they do need to be shovel-ready. It was further questioned if the City could apply for the ARPA grants for this project. It was clarified that it would depend on the State as to how soon this project would be shovel-ready.

Matt Smith, KLJ, stated that using ARPA grant funds on S. 4th may make more sense. Then using other funding sources on W. Railroad Street. ARPA funds must be spent by 2026. It is a little dicey based on the timeline right now with W. Railroad Street. The City may not have this project completed by 2026. S. 4th also has a water main that the City will be replacing. This would allow the City to save those enterprise funds for W. Railroad Street.

In 2009 the American Recovery and Reinvestment Act did allow streets to be including in infrastructure projects. ARPA funds, however, do not include streets. It is for water, sewer, stormwater, and broadband. The County is using their ARPA funds on the Metra to replace the water and sewer on the premises. There was a discussion at the Public Works Committee meeting about applying to do the water and sewer on W. Railroad now and working with the State for the remainder of the project later. However, this would leave the street in far worse condition. Council noted that their preference is to have the whole street move forward.

Mayor Nelson requested a PowerPoint presentation be given at the next Workshop. There should be slides on the projects and the funding for both projects. There are a few scenarios the City can consider for moving forward. Discussion to continue at the August 3, 2021 Workshop.

13. W. Railroad/S. 4th Street Street Scenarios

They discussed this during the previous agenda item.

Other Items

Review of Draft Council Agendas

14. Draft Council Agenda for July 27, 2021.

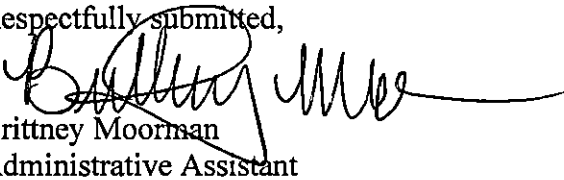
Attendance at Upcoming Council Meeting

Announcements

There were none.

The Council Workshop adjourned at 10:25 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brittney Moorman", written over the printed name.

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.

RECOMENDATION

TO: Thomas C. Nelson, Mayor
Bethany Langve, City Clerk Treasurer
FROM: Matt Wheeler, Public Works Superintendent
Nathan Herman, Utility Plants Superintendent
SUBJECT: New refuse truck purchase
DATE: July 16, 2021

Mayor and Bethany,

The City received 7 bids for a new refuse truck. The bids ranged from \$307,931.00 to \$376,319.00.

The bids are as follows:

Billings Peterbilt	Peterbilt Cab/Scorpion Body	\$351,067.00
Billings Peterbilt	Peterbilt Cab/ Curbtender Body 27yd	\$307,931.00
Billings Peterbilt	Peterbilt Cab/Curbtender Body 31yd	\$316,429.00
SWS Equipment	Autocar Cab/Scorpion Body	\$375,175.00
Kois Brothers	Peterbilt Cab/Heil Body	\$352,546.00
Kois Brothers	Mack Cab/Heil Body	\$354,741.00
Kois Brothers	Autocar/Heil Body	\$376,319.00

After reviewing the City specifications and evaluating the past history and future needs of the city, It is our recommendation to award the bid to Kois Brothers for a Autocar with a Heil body as it meets all the specifications.

Sincerely,

Matt Wheeler



Nathan Herman



Cc. Kurt Markegard, Public Works Director

MCA Contents / TITLE 3 / CHAPTER 6 / Part 1 / 3-6-101 Establishment ...

Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 1. General Provisions

Establishment Of Court

3-6-101. Establishment of court. (1) A city with a population of 4,000 or more, according to the last federal census, may have a court, known as the municipal court of the city of (designating the name of the city) of the state of Montana. The court must be a court of record. The municipal court shall assume continuing jurisdiction over all pending city court cases in the city in which the municipal court is established.

(2) A city may have a municipal court only if the governing body of the city elects by a two-thirds majority vote to adopt the provisions of this chapter by ordinance and, in the ordinance, provides the manner in which and time when the municipal court is to be established and is to assume continuing jurisdiction over all pending city court cases. If a city judge is not an attorney and the office is abolished because a municipal court is established, the ordinance must provide that the time when the establishment of the municipal court takes effect is the date on which the municipal court judge elected at the next election held under **3-6-201** begins the municipal court judge's term of office. The ordinance must be consistent with the provisions of this chapter.

History: En. Sec. 1, Ch. 177, L. 1935; re-en. Sec. 5094.1, R.C.M. 1935; amd. Sec. 1, Ch. 429, L. 1977; R.C.M. 1947, 11-1701; amd. Sec. 1, Ch. 99, L. 1991; amd. Sec. 182, Ch. 61, L. 2007.

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MCA Contents / TITLE 3 / CHAPTER 6 / Part 1 / 3-6-102 Abolition of city...

Montana Code Annotated 2019


TITLE 3. JUDICIARY, COURTS
CHAPTER 6. MUNICIPAL COURTS
Part 1. General Provisions

Abolition Of City Court

3-6-102. Abolition of city court. (1) In cities in which a municipal court is established, the office of city judge is abolished.

(2) Except as provided in **3-6-101(2)**, a city judge whose office is abolished shall serve as a municipal court judge in the same city in which the judge served as city judge for the remainder of the judge's term and until the office of municipal court judge is filled by election, as provided under **3-6-201**.

History: En. Sec. 16, Ch. 177, L. 1935; re-en. Sec. 5094.16, R.C.M. 1935; R.C.M. 1947, 11-1716; amd. Sec. 2, Ch. 99, L. 1991; amd. Sec. 2, Ch. 389, L. 2003.

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MCA Contents / TITLE 3 / CHAPTER 6 / Part 1 / 3-6-103 Jurisdiction

Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS
CHAPTER 6. MUNICIPAL COURTS
Part 1. General Provisions


Jurisdiction

3-6-103. Jurisdiction. (1) The municipal court has jurisdiction coordinate and coextensive with the justices' courts of the county where the city is located and has exclusive original jurisdiction of all civil and criminal actions and proceedings provided for in **3-11-103**.

(2) Municipal courts have concurrent jurisdiction with the district court in actions arising under Title 70, chapters 24 through 27.

(3) Applications for search warrants and complaints charging the commission of a felony may be filed in municipal court. The municipal court judge has the same jurisdiction and responsibility as a justice of the peace, including holding preliminary hearings. The city attorney may initiate proceedings charging a felony if the offense was committed within the city limits, but the county attorney shall take charge of the action if an information is filed in district court.

History: En. Sec. 2, Ch. 177, L. 1935; re-en. Sec. 5094.2, R.C.M. 1935; R.C.M. 1947, 11-1702; amd. Sec. 1, Ch. 330, L. 1991.

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MCA Contents / TITLE 3 / CHAPTER 6 / Part 1 / 3-6-104 Powers and du...

Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 1. General Provisions

Powers And Duties Of The Court

3-6-104. Powers and duties of the court. (1) Except as otherwise provided by this chapter, chapter 30 of Title 25, and part 4 of chapter 17 of Title 46, the municipal court shall have in matters within its jurisdiction all the powers and duties of district judges in like cases. The court may make and alter rules for the conduct of its business and prescribe forms of process conformable to law.

(2) The municipal court shall establish rules for appeal to district court. The rules are subject to the supreme court's rulemaking and supervisory authority.

History: (1)En. Sec. 20, Ch. 177, L. 1935; re-en. Sec. 5094.19, R.C.M. 1935; Sec. 11-1719, R.C.M. 1947; (2)En. Sec. 17, Ch. 177, L. 1935; re-en. Sec. 5094.17, R.C.M. 1935; amd. Sec. 9, Ch. 429, L. 1977; Sec. 11-1717, R.C.M. 1947; R.C.M. 1947, 11-1717(3), 11-1719(part).

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MCA Contents / TITLE 3 / CHAPTER 6 / Part 1 / 3-6-105 Courtroom and...

Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 1. General Provisions

Courtroom And Supplies

3-6-105. Courtroom and supplies. A room for the municipal court, with necessary furniture, fixtures, and supplies, shall be provided by the city wherein the court is located.

History: En. Sec. 5, Ch. 177, L. 1935; re-en. Sec. 5094.5, R.C.M. 1935; amd. Sec. 5, Ch. 429, L. 1977; R.C.M. 1947, 11-1705.

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MCA Contents / TITLE 3 / CHAPTER 6 / Part 1 / 3-6-106 Sessions of co...

Montana Code Annotated 2019


TITLE 3. JUDICIARY, COURTS
CHAPTER 6. MUNICIPAL COURTS
Part 1. General Provisions

Sessions Of Court -- Departments

3-6-106. Sessions of court -- departments. (1) The municipal court must be in continuous session from 9 a.m. to noon and from 1 p.m. to 4 p.m. on every day except nonjudicial days. The judge may designate additional hours as the judge believes necessary. If there is more than one judge, each judge may hold a session of the court and may designate additional hours as the judge believes necessary.

(2) If there is more than one judge, the chief municipal court judge shall divide the court into departments, make rules for the government of the court, and describe the order of the court's business. Each department must be numbered, and a judge must be assigned to each department.

History: En. Sec. 8, Ch. 177, L. 1935; re-en. Sec. 5094.8, R.C.M. 1935; amd. Sec. 6, Ch. 429, L. 1977; R.C.M. 1947, 11-1708; amd. Sec. 1, Ch. 167, L. 2005.

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Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 1. General Provisions


Appeal To District Court -- Record On Appeal

3-6-110. Appeal to district court -- record on appeal. (1) A party may appeal to district court from a municipal court judgment or order. The appeal is confined to review of the record and questions of law, subject to the supreme court's rulemaking and supervisory authority.

(2) The record on appeal to district court consists of an electronic recording or stenographic transcription of a case tried, together with all papers filed in the action.

(3) The district court may affirm, reverse, or amend any appealed order or judgment and may direct the proper order or judgment to be entered or direct that a new trial or further proceeding be had in the court from which the appeal was taken.

History: En. Sec. 6, Ch. 99, L. 1991.

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Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 2. Municipal Court Judges

Number Of Judges -- Election -- Term Of Office -- Chief Judge -- Duties Of Chief Judge -- Assistant Judge

3-6-201. Number of judges -- election -- term of office -- chief judge -- duties of chief judge -- assistant judge. (1) The governing body of a city shall determine by ordinance the number of judges required to operate the municipal court.

(2) A municipal court judge who is not a part-time assistant judge appointed under subsection (6) must be elected at the general election, as provided in **13-1-104(3)**. The judge's term commences on the first Monday in January following the election. The judge shall hold office for the term of 4 years and until a successor is elected and qualified.

(3) Except as provided in subsection (2), all elections of municipal court judges are governed by the laws applicable to the election of district court judges.

(4) (a) If there is more than one municipal court judge, the judges shall adopt a procedure by which they either:

(i) select a chief municipal court judge at the beginning of each calendar year; or

(ii) select a chief municipal court judge for a specific period of time.

(b) If the judges cannot agree, the judge with the most seniority shall serve as the chief municipal court judge.

(5) The chief municipal court judge shall provide for the efficient management of the court, in cooperation with the other judge or judges, if any, and shall:

(a) maintain a central docket of the court's cases;

(b) provide for the distribution of cases from the central docket among the judges, if there is more than one judge, in order to equalize the work of the judges;


(c) request the jurors needed for cases set for jury trial;

(d) if there is more than one judge, temporarily reassign or substitute judges among the departments as necessary to carry out the business of the court; and

(e) supervise and control the court's personnel and the administration of the court.

(6) A municipal court judge may, with the approval of the governing body of the city, appoint a part-time assistant judge, who must have the same qualifications as a judge pro tempore under **3-6-204**, to serve during the municipal court judge's term of office. An order by a part-time assistant judge has the same force and effect as an order of a municipal court judge.

History: En. Sec. 3, Ch. 177, L. 1935; re-en. Sec. 5094.3, R.C.M. 1935; amd. Sec. 2, Ch. 429, L. 1977; R.C.M. 1947, 11-1703; amd. Sec. 376, Ch. 571, L. 1979; amd. Sec. 3, Ch. 99, L. 1991; amd. Sec. 2, Ch. 167, L. 2005; amd. Sec. 13, Ch. 49, L. 2015; amd. Sec. 1, Ch. 318, L. 2019.

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TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 2. Municipal Court Judges

Qualifications -- Certification -- Training

3-6-202. Qualifications -- certification -- training. (1) A municipal court judge must have the same qualifications as a judge of a district court, as set forth in Article VII, section 9, of the Montana constitution, except that a municipal court judge need only be admitted to the practice of law in Montana for at least 3 years prior to the date of appointment or election.

(2) A municipal court judge shall reside in the county in which the court is located and shall meet the residency requirements provided in **3-10-204**.

(3) The commission on courts of limited jurisdiction, upon finding compliance with subsections (1) and (2), shall issue a certificate, as required in **3-1-1502**, prior to the municipal court judge assuming office. The certificate must be conditioned upon continued compliance with the minimum judicial education requirements provided for in this section. The certificate must be filed with the clerk and recorder as provided in **3-1-1502**.


(4) A municipal court judge shall complete a minimum of 15 hours of continuing judicial education requirements each year or a greater number established by the supreme court. Attendance at the two annual training sessions under **3-10-203** may fulfill the requirement provided for in this subsection.

(5) Completion of a course approved for continuing judicial or legal education hours applies to the judicial education requirements under subsection (4).

(6) A municipal court judge is entitled to reimbursement by the city in which the judge holds or will hold court for all actual and necessary expenses and costs incurred in attending a continuing judicial or legal education course.

(7) On or before December 31 of each year, a municipal court judge shall file an affidavit of compliance with the continuing judicial education requirements established in this section with the commission on courts of limited jurisdiction. The supreme court may sanction a municipal court judge or declare a vacancy in the office of the judge for failure to meet the training requirements established in this section.

History: En. Sec. 4, Ch. 177, L. 1935; re-en. Sec. 5094.4, R.C.M. 1935; amd. Sec. 1, Ch. 124, L. 1974; amd. Sec. 3, Ch. 429, L. 1977; R.C.M. 1947, 11-1704(1); amd. Sec. 3, Ch. 317, L. 1991; amd. Sec. 3, Ch. 389, L. 2003.

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MCA Contents / TITLE 3 / CHAPTER 6 / Part 2 / 3-6-203 Salary

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TITLE 3. JUDICIARY, COURTS


CHAPTER 6. MUNICIPAL COURTS

Part 2. Municipal Court Judges

Salary

3-6-203. Salary. The salary of the municipal court judge must be set by ordinance or resolution and is payable monthly by the city treasurer. Actual and necessary expenses for the municipal court judge are expenses, as defined and provided in **2-18-501** through **2-18-503**, incurred in the performance of official duties.

History: En. Sec. 4, Ch. 177, L. 1935; re-en. Sec. 5094.4, R.C.M. 1935; amd. Sec. 1, Ch. 124, L. 1974; amd. Sec. 3, Ch. 429, L. 1977; R.C.M. 1947, 11-1704(2); amd. Sec. 8, Ch. 528, L. 1979; amd. Sec. 4, Ch. 99, L. 1991; amd. Sec. 183, Ch. 61, L. 2007.

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TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 2. Municipal Court Judges

Disqualification -- Judge Pro Tempore

3-6-204. Disqualification -- judge pro tempore. When a judge of a municipal court has been disqualified or is sick or unable to act, the judge shall call in a sitting or retired judge of a court of record or an attorney who is a member of the state bar of Montana and is in good standing to act as a judge pro tempore. The judge pro tempore has the same power and authority as the municipal court judge.

History: En. Sec. 13, Ch. 177, L. 1935; re-en. Sec. 5094.13, R.C.M. 1935; R.C.M. 1947, 11-1713; amd. Sec. 20, Ch. 21, L. 1979; amd. Sec. 4, Ch. 389, L. 2003; amd. Sec. 3, Ch. 167, L. 2005; amd. Sec. 3, Ch. 557, L. 2005; amd. Sec. 1, Ch. 105, L. 2013.

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Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 3. Conduct of Court Business

Clerk Of The Court -- Administrative Expenses

3-6-301. Clerk of the court -- administrative expenses. The position of municipal court clerk of the court must be established by ordinance. The governing body of the city shall set the salary of the clerk and provide for other necessary expenses that may be incurred in operating the court.

History: En. Sec. 6, Ch. 177, L. 1935; re-en. Sec. 5094.6, R.C.M. 1935; R.C.M. 1947, 11-1706(part); amd. Sec. 5, Ch. 99, L. 1991.

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TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 3. Conduct of Court Business

Records -- Electronic Filing And Storage

3-6-302. Records -- electronic filing and storage. (1) The records of the court must be kept by the clerk. The records in civil causes must conform as nearly as possible to the records of district courts. In criminal causes, in cases arising under city ordinances, and in cases mentioned in **3-11-103**, the records must be similar to the records now kept in justices' courts.

(2) The clerk may elect to keep court documents by means of electronic filing or storage, or both, as provided in **3-1-114** and **3-1-115**, in lieu of or in addition to keeping paper records.

History: En. Sec. 6, Ch. 177, L. 1935; re-en. Sec. 5094.6, R.C.M. 1935; R.C.M. 1947, 11-1706(part); amd. Sec. 21, Ch. 21, L. 1979; amd. Sec. 5, Ch. 174, L. 1995.

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MCA Contents / TITLE 3 / CHAPTER 6 / Part 3 / 3-6-303 Officers of court

Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS

CHAPTER 6. MUNICIPAL COURTS

Part 3. Conduct of Court Business

Officers Of Court

3-6-303. Officers of court. (1) The chief of police of the city is the executive officer of the municipal court. The chief of police shall serve all process and execute all orders of the court, either in person or by subordinate police officer, who shall execute process in the chief's name.

(2) The chief of police, with the approval of the judge, shall appoint one or more police officers as court officers, one of whom shall attend the sessions of the court and perform all duties in connection with the court that the judge may require.

History: En. Sec. 7, Ch. 177, L. 1935; re-en. Sec. 5094.7, R.C.M. 1935; R.C.M. 1947, 11-1707; amd. Sec. 184, Ch. 61, L. 2007.

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Chapter 3 MUNICIPAL COURT

Sections:

2.3.010 Established.

The Municipal Court of the City of Great Falls, Montana, is hereby established pursuant to Title 3, Chapter 6, Montana Code Annotated (MCA). The Municipal Court shall be a court of record by electronic recording or stenographic transcription and shall assume continuing jurisdiction over all pending Municipal Court cases from and after February 1, 1998.

(Ord. 3169, 2017).

2.3.020 Appeal to District Court.

Appeals of Municipal Court judgments or orders must be made to District Court and are confined to review of the record and questions of law. A party may appeal a Municipal Court judgment if:

- A. In criminal causes of action, the amount of controversy exceeds three hundred dollars (\$300.00); or
- B. The judgment includes incarceration; or
- C. In civil causes of action, the amount of controversy exceeds one thousand dollars (\$1,000).
- D. Upon petition of an aggrieved party, the District Court may, in the interests of justice, accept appellate jurisdiction notwithstanding the amount in controversy.

(Ord. 3169, 2017)

2.3.030 Municipal Court Judges.

- A. There shall be one (1) Municipal Court Judge elected to a four (4) year term pursuant to Mont. Code Ann. Title 3, Chapter 6. The qualifications of the elected Municipal Court Judge shall be as required by Montana law to include:
 - 1. The same qualifications as a Montana Judicial District Court Judge as set forth in Article VII, Section 9, of the Montana Constitution, except that the Municipal Court Judge need only be admitted to the practice of law in Montana for at least three (3) years prior to the date of the election;
 - 2. The Municipal Court Judge shall be a resident and qualified elector in the City of Great Falls at the time of his or her election; and
 - 3. The Municipal Court Judge shall be certified as provided in Mont. Code Ann. §§ 3-1-1502-1503, prior to assuming office.
- B. The salary of the Municipal Court Judge shall be set by Commission resolution.
- C. The elected Municipal Court Judge may appoint a part-time Assistant Municipal Court Judge to serve at the will of the elected Municipal Court Judge. The Assistant Municipal Court Judge shall:

-
1. Meet the qualifications as set forth in Article VII, Section 9, of the Montana Constitution, except that the Assistant Judge need only be admitted to the practice of law in Montana for at least three (3) years prior to the date of appointment;
 2. Be certified as provided in Mont. Code Ann. §§ 3-1-1502-1503, prior to appointment; and
 3. The salary for the Assistant Municipal Court Judge shall be set by Commission resolution.

(Ord. 3208, 2019 ; Ord. 3169, 2017).

2.3.040 Municipal Court Clerk.

The position of a Municipal Court Clerk is hereby established pursuant to Title 3, Chapter 6, MCA, to administer and retain court records by paper or electronic filing or storage. The salary of the Municipal Court Clerk shall be set by Commission resolution.

(Ord. 3169, 2017)

Chapter 22 MUNICIPAL COURT¹

Sec. 22.01.010. Establishment.

- A. The municipal court is hereby established pursuant to title 3, chapter 6, Montana Code Annotated (MCA 3-6-101 et seq.). The court is established for all intents and purposes set forth in state law and any reasonable inference therein.
- B. The municipal court will be a court of record by electronic recording or stenographic transcription and will assume continuing jurisdiction over all pending city court cases.

(Code 1982, § 2.06.010; Ord. No. 1490, § 1, 1999)

Sec. 22.01.020. Sessions.

- A. The municipal court will be in session at times and on days established by the court except nonjudicial days. A judge may set specific hours as necessary.
- B. Nonjudicial days are defined as any legal holidays, or days appointed by the President of the United States or by the Governor of Montana for a public fast, thanksgiving, or holiday except as set forth in subsection C of this section.
- C. The municipal court will, on any day:
 - 1. Give instructions to a jury when deliberating;
 - 2. Receive a verdict or discharge a jury;
 - 3. Exercise its powers in a criminal action; and
 - 4. Issue writs of prohibition, injunctions and habeas corpus.

(Code 1982, § 2.06.020; Ord. No. 1490, § 1, 1999)

Sec. 22.01.030. Office of clerk of the municipal court.

The position of clerk of the municipal court is established. The clerk will work under the supervision and control of the chief municipal judge.

(Code 1982, § 2.06.030; Ord. No. 1490, § 1, 1999)

Sec. 22.01.040. Duties of the clerk of the municipal court.

The clerk of the municipal court will establish, maintain, retain and administer all municipal court records by means of electronic filing or storage or both. In any event, the clerk will maintain a paper copy of all records established. The clerk will assist the municipal judge in the recording and signing of court proceedings as well as

¹State law reference(s)—Municipal courts, MCA 3-6-101 et seq.

general operations of the court. The clerk will have all other powers and duties as prescribed in MCA 3-5-501, relevant to a municipal court as well as all other duties assigned by the department of administrative services.

(Code 1982, § 2.06.040; Ord. No. 1490, § 1, 1999)

Sec. 22.01.050. Office of municipal judge.

The office of the municipal judge is hereby established for the city. There will be two full-time municipal judges. The commission may change the number of full-time municipal judges by ordinance. The chief judge of the municipal court shall be determined in accordance with title 3, chapter 6, of the Montana Code Annotated (MCA 3-6-101 et seq.).

(Code 1982, § 2.06.050; Ord. No. 1490, § 1, 1999; Ord. No. 2073, § 1, 4-20-2021)

Sec. 22.01.060. Method of selection and term of office.

Each person holding the office of full-time municipal judge will be elected at a general election and will hold office for a period of four years. The terms of the municipal judges shall be staggered.

(Code 1982, § 2.06.060; Ord. No. 1490, § 1, 1999; Ord. No. 2073, § 1, 4-20-2021)

Sec. 22.01.070. Qualifications of municipal judge.

A municipal judge, at the time of election or appointment, shall be a resident for one year of and registered to vote in the county. The municipal judge must have the same qualifications as a district judge, as set forth in article VII, section 9 of the 1972 Constitution, except that the judge need only be admitted to the practice of law in the state for a minimum of three years prior to the date of election or appointment.

(Code 1982, § 2.06.070; Ord. No. 1490, § 1, 1999)

Sec. 22.01.080. Powers and duties of municipal judge.

A municipal judge will have those powers and duties as are provided by state law and the state supreme court. A judge will also have all duties imposed by city ordinances. A judge will hear and determine all suits, actions and prosecutions instituted in the municipal court pursuant to state law and ordinances of the city.

(Code 1982, § 2.06.080; Ord. No. 1490, § 1, 1999)

Sec. 22.01.090. Compensation and expenses.

- A. The city commission will establish the annual salary or the annual rate of adjustment of a municipal judge.
- B. The municipal judges will receive any actual and necessary expenses as budgeted in the city's annual budget.

(Code 1982, § 2.06.100; Ord. No. 1490, § 1, 1999; Ord. No. 2073, § 1, 4-20-2021)

Sec. 22.01.100. Oath and deposit of funds.

- A. The oath of office will be filed with the office of the city clerk.

-
- B. The moneys, from whatever source, collected under the jurisdiction of the municipal judge will be deposited and managed in accordance with law.
 - C. All such moneys will be deposited with the treasurer of the city as directed by the director of administrative services.
 - D. In order to establish an appropriate control of moneys deposited temporarily for bonds; appearance bonds, etc., all such moneys will be placed into a trust fund to be maintained and controlled by the clerk of the municipal court. Upon final disposition of the matter to which such a bond pertains by the municipal court, the clerk of the municipal court will disburse such moneys according to the direction of the municipal judge.

(Code 1982, § 2.06.110; Ord. No. 1490, § 1, 1999)

Sec. 22.01.110. Qualifications of a judge pro tempore.

- A. When a judge of the municipal court has been disqualified or is sick or for any reason unable to act, the judge will call in a qualified practicing attorney of the city who will be judge pro tempore with the same powers for the purposes of the cause as the judge of the municipal court.
- B. Any person acting as judge pro tempore must meet the following qualifications:
 - 1. Be a sitting judge of a court of record or be an attorney admitted to practice in the state for a period of not less than five years; and
 - 2. Be either a resident of the county or have a law practice or other law-related employment whose business address is within the county.

(Code 1982, § 2.06.120; Ord. No. 1490, § 1, 1999)

State law reference(s)—Similar provisions, MCA 3-6-204.

Sec. 22.01.120. Vacancy filled by commission.

Should a vacancy occur in the office of a municipal judge, the city commission will appoint a qualified individual to serve for the remainder of the term.

(Code 1982, § 2.06.130; Ord. No. 1490, § 1, 1999)

Sec. 22.01.130. Appeal to district court.

- A. A party may appeal a municipal court judgment or order to the district court in either criminal or civil actions. An appeal to the district court is confined to review of the record and questions of law, subject to the supreme court's rulemaking and supervisory authority.
- B. On appeal, the clerk of the municipal court will transfer the record consisting of an electronic recording or stenographic transcription of the case tried, together with all papers filed in the action. The clerk may charge the requestor a reasonable fee for any copies or transcription made necessary by the appeal.

(Code 1982, § 2.06.140; Ord. No. 1490, § 1, 1999)

Sec. 22.01.140. Limitation on appeals.

- A. A party in a civil case may appeal a municipal court judgment or order to the district court in cases where the amount in controversy exceeds \$1,000.00.

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- B. In criminal actions, a defendant may appeal a municipal court judgment or order to the district court in cases where the amount in controversy exceeds \$300.00 or where incarceration has been ordered. The state may appeal in any instance set forth in state law.
 - C. Notwithstanding the foregoing, the district court may, in the interests of justice, accept appeal jurisdiction upon petition of the aggrieved party.

(Code 1982, § 2.06.150; Ord. No. 1490, § 1, 1999)



Laurel Police Department

215 W. 1st Street Laurel, Mt. 59044 • Phone 406-628-8737 • Fax 406-628-4641

Chief of Police Stanley J Langve

To Whom it may concern,

On 7-6- 21 I attended the Council workshop and was asked for input regarding any potential impact to the Police Department if Laurel had a Municipal Court versus a City Court. While not a legal expert when it comes to all the inner workings of the Court system, I have the following insights.

Search Warrants

46-5-101. Searches and seizures -- when authorized. A search of a person, object, or place may be made and evidence, contraband, and persons may be seized in accordance with Title 46 when a search is made: (1) by the authority of a search warrant; or (2) in accordance with judicially recognized exceptions to the warrant requirement.

This law basically states that all seizure of evidence must be via a search warrant unless it falls into a recognized exception to the search warrant requirement. If an officer has Probable Cause that a crime has or is about to be committed but cannot seize evidence because it falls outside of the search warrant exceptions, they apply for a warrant. If, during the execution of that warrant, evidence of a different crime, outside of the scope of your original search warrant application, is discovered the officers stops and applies for a new search warrant. The probable cause for the new warrant is established through the facts and circumstances based upon the legality of the original search warrant.

City Court warrants are problematic to prosecution in District Courts. So, if evidence of a felony were to be discovered during the execution of a City Court warrant it lends itself to increased scrutiny and avenues of suppression.

Retrials

Officers who are off shift receive a minimum of 3 hours overtime pay for Court call outs. Obviously if one or multiple officers do not have to be recalled for a second trial there is a benefit and savings.

In closing, I would like to add another observation based upon my career in Law Enforcement. Proper support of our Court and Prosecutor's Office is paramount to the level of justice that our community expects and deserves.

Respectfully,

Stanley J Langve
Chief of Police

Court Comparisons

JURISDICTION AND ABILITY	Laurel City Court	Laurel City Court of Record	Laurel Municipal Court of Record	Justice Court	Justice Court of Record	District Court
Order of Protection	X	X	X	X	X	X
Small Claims				X	X	X
Trial de novo	X			X		
Requires Judge to be Attorney			X			X
MT Supreme Court School	X	X	X	X	X	X
Issue Search Warrants (written and telephonic). Includes DUI blood draw. Warrant of Probable Cause	X	X	X	X	X	X
Term Length (years)	4	4	4	4	4	4
Laurel City Ordinances	X	X	X			
Criminal Law (traffic, drugs, theft, PFMA, etc.)	X	X	X	X	X	X
Civil Law (monetary cap of \$12,000);	X	X	X	X	X	X
Initial Felony Appearance Hearing	X	X	X	X	X	X
Landlord/Tenant				X	X	X

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TITLE 3. JUDICIARY, COURTS

CHAPTER 11. CITY COURTS

Part 1. Creation and Jurisdiction

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**.

History: (1)En. Sec. 4910, Pol. C. 1895; re-en. Sec. 3296, Rev. C. 1907; re-en. Sec. 5087, R.C.M. 1921; re-en. Sec. 5087, R.C.M. 1935; amd. Sec. 1, Ch. 165, L. 1975; amd. Sec. 2, Ch. 344, L. 1977; Sec. 11-1601, R.C.M. 1947; (2)En. Sec. 80, C. Civ. Proc. 1895; re-en. Sec. 6289, Rev. C. 1907; re-en. Sec. 8843, R.C.M. 1921; Cal. C. Civ. Proc. Sec. 121; re-en. Sec. 8843, R.C.M. 1935; amd. Sec. 3, Ch. 165, L. 1975; Sec. 93-411, R.C.M. 1947; R.C.M. 1947, 11-1601, 93-411(1); amd. Sec. 1, Ch. 543, L. 1987; amd. Sec. 2, Ch. 292, L. 1995; amd. Sec. 2, Ch. 38, L. 2011; amd. Sec. 15, Ch. 49, L. 2015.

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TITLE 3. JUDICIARY, COURTS

CHAPTER 11. CITY COURTS

Part 1. Creation and Jurisdiction

Powers And Duties Of City Court Of Record

3-11-109. Powers and duties of city court of record. (1) Except as otherwise provided by Title 25, chapter 30, and this chapter, the judge in a city court of record has, in matters within its jurisdiction, all the powers and duties of district judges in like cases. The judge may make and alter rules for the conduct of its business and prescribe forms of process conformable to law.

(2) The city court of record shall establish rules for appeal to district court. The rules are subject to the supreme court's rulemaking and supervisory authority.

History: En. Sec. 3, Ch. 38, L. 2011.

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Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS

CHAPTER 11. CITY COURTS

Part 1. Creation and Jurisdiction

Exclusive Jurisdiction

3-11-103. Exclusive jurisdiction. Except as provided in **3-11-104**, the city court has exclusive jurisdiction of:

- (1) proceedings for the violation of an ordinance of the city or town, both civil and criminal;
- (2) when the amount of the taxes or assessments sought does not exceed \$9,500, actions for the collection of taxes or assessments levied for any of the following purposes, except that no lien on the property taxed or assessed for the nonpayment of the taxes or assessments may be foreclosed in any such action:
 - (a) city or town purposes;
 - (b) the erection or improvement of public buildings;
 - (c) the laying out, opening, or improving of a public street, sidewalk, alley, or bridge;
 - (d) the acquisition or improvement of any public grounds; and
 - (e) public improvements made or ordered by the city or town within its limits;
- (3) actions for the collection of money due to the city or town or from the city or town to any person when the amount sought, exclusive of interest and costs, does not exceed \$9,500;
- (4) when the amount claimed, exclusive of costs, does not exceed \$9,500, actions for:
 - (a) the breach of an official bond given by a city or town officer;
 - (b) the breach of any contract when the city or town is a party or is in any way interested;
 - (c) damages when the city or town is a party or is in any way interested;
 - (d) the enforcement of forfeited recognizances given to, for the benefit of, or on behalf of the city or town; and
 - (e) collection on bonds given upon an appeal taken from the judgment of the court in any action mentioned in subsections (4)(a) through (4)(d);
- (5) actions for the recovery of personal property belonging to the city or town when the value of the property, exclusive of the damages for the taking or detention, does not exceed \$9,500; and
- (6) actions for the collection of a license fee required by an ordinance of the city or town.

History: En. Sec. 4912, Pol. C. 1895; re-en. Sec. 3298, Rev. C. 1907; re-en. Sec. 5089, R.C.M. 1921; Cal. Pol. C. Sec. 4427; re-en. Sec. 5089, R.C.M. 1935; amd. Sec. 5, Ch. 344, L. 1977; R.C.M. 1947, 11-1603; amd. Sec. 27, Ch. 21, L. 1979; amd. Sec. 6, Ch. 409, L. 1979; amd. Sec. 1, Ch. 348, L. 1985; amd. Sec. 3, Ch. 307,

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Montana Code Annotated 2019

TITLE 3. JUDICIARY, COURTS

CHAPTER 11. CITY COURTS

Part 1. Creation and Jurisdiction

Concurrent Jurisdiction

3-11-102. Concurrent jurisdiction. (1) The city court has concurrent jurisdiction with the justice's court of all misdemeanors and proceedings mentioned and provided for under chapter 10, part 3, of this title.

(2) Applications for search warrants and complaints charging the commission of a felony may be filed in the city court. When they are filed, the city judge has the same jurisdiction and responsibility as a justice of the peace, including the holding of a preliminary hearing. The city attorney may file an application for a search warrant or a complaint charging the commission of a felony when the offense was committed within the city limits. The county attorney, however, must handle any action after a defendant is bound over to district court.

History: En. Sec. 4911, Pol. C. 1895; amd. Sec. 1, Ch. 16, L. 1903; re-en. Sec. 3297, Rev. C. 1907; re-en. Sec. 5088, R.C.M. 1921; Cal. Pol. C. Sec. 4426; re-en. Sec. 5088, R.C.M. 1935; amd. Sec. 1, Ch. 93, L. 1967; amd. Sec. 10, Ch. 240, L. 1971; amd. Sec. 11, Ch. 94, L. 1973; amd. Sec. 4, Ch. 274, L. 1974; amd. Sec. 2, Ch. 165, L. 1975; amd. Sec. 4, Ch. 344, L. 1977; R.C.M. 1947, 11-1602; amd. Sec. 2, Ch. 543, L. 1987.

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Montana Code Annotated 2019

TITLE 46. CRIMINAL PROCEDURE
CHAPTER 5. SEARCH AND SEIZURE
Part 2. Search Warrants

Grounds For Search Warrant

46-5-221. Grounds for search warrant. A judge shall issue a search warrant to a person upon application, in writing, by telephone, or electronically, made under oath or affirmation, that:

- (1) states facts sufficient to support probable cause to believe that an offense has been committed;
- (2) states facts sufficient to support probable cause to believe that evidence, contraband, or persons connected with the offense may be found;
- (3) particularly describes the place, object, or persons to be searched; and
- (4) particularly describes who or what is to be seized.

History: En. 95-704 by Sec. 1, Ch. 196, L. 1967; amd. Sec. 7, Ch. 184, L. 1977; R.C.M. 1947, 95-704; amd. Sec. 3, Ch. 116, L. 1979; amd. Sec. 1, Ch. 339, L. 1979; amd. Sec. 50, Ch. 800, L. 1991; Sec. 46-5-202, MCA 1989; redes. 46-5-221 by Code Commissioner, 1991; amd. Sec. 1, Ch. 22, L. 2015.



AFFIDAVIT IN SUPPORT OF TELEPHONIC SEARCH WARRANT

Important: Do not write down or say the judge's telephone number or address on this form or during the call.

Investigation Number: _____

Turn on the recording device. Read verbatim the following document, including the necessary filled-in areas.

Judge _____, this is Officer _____ Badge No. _____ of the

☐ _____ Police Dept ☐ _____ County Sheriff's Office ☐ Montana Highway Patrol
☐ _____

Other

I am requesting your assistance with a Telephonic Search Warrant in support of a:

☐ DUI Investigation (Second or Subsequent Offense, Refusal) ☐ Vehicular Homicide
☐ Aggravated DUI Investigation ☐ Negligent Vehicular Assault
☐ Other: _____

My testimony is being recorded (and Officer _____ Badge No. _____ is my witness.)
Will you swear me in, please?

Thank you, your honor. I will now continue with the affidavit.

Judge, I have probable cause to believe that there is now in the body, blood or bodily fluid of

Suspect's name

Date of birth

Located at: _____

The following substance and/or property, to wit:

☐ Alcohol and/or drugs that together with other evidence constitutes the crime of:
☐ Driving Under the Influence of Alcohol or Drugs as defined by Montana law, and/or ☐ Vehicular Homicide
☐ Other: _____ ☐ Negligent Vehicular Assault

As set forth in this affidavit, I, Officer _____, am a peace officer in the State of Montana, employed by
☐ _____ Police Dept ☐ _____ County Sheriff's Office ☐ Montana Highway Patrol.

I have been a sworn peace officer for _____ years. I have specialized training in:

☐ DUI investigation and apprehension
☐ Drug recognition as a Drug Recognition Expert (D.R.E.), with certification on _____ date
☐ Crash investigation
☐ Other: _____

I am investigating the crime of:

☐ DUI ☐ Vehicular Homicide
☐ Aggravated DUI ☐ Negligent Vehicular Assault
☐ Other: _____

Which I believe to have been committed on the _____ day of _____, 20____, at the time of _____ hours
at the location of _____, _____ County, Montana,
based on the following reasons and circumstances:

Crash (describe circumstances): _____

Driving behavior/other observations (including identity of suspect as driver): _____

As to the DUI investigation, the suspect has a:

☐ prior conviction for DUI or substantially similar offense (or a ☐ prior refusal) on _____

The following observations of symptoms and/or impairment were made of _____ by me or other witness(es).

Eyes

☐ watery
☐ bloodshot

Face

☐ flushed
☐ pale
☐ dazed expression

Odor – alcohol

☐ faint
☐ moderate
☐ strong

Odor – marijuana

☐ faint
☐ moderate
☐ strong

Speech

☐ Slurred
☐ incoherent
☐ profanity

Balance

☐ swaying
☐ staggering
☐ lost balance/fell down

Attitude

☐ antagonistic
☐ combative
☐ mood swings

Unusual actions

☐ hiccoughing
☐ vomiting
☐ urination/defecation

Pupils

☐ poor reaction
☐ dilated

Clothing

☐ soiled
☐ messy, torn

Other: _____

HGN _____ Walk/turn _____ One leg stand _____, indicating impairment

DRE Observations: _____

PBT results: _____ ☐ refused; Intoxilyzer results: _____ ☐ refused

I believe that the property, substance, and behavior that I have described in this affidavit are evidence of driving or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs.

I have informed the suspect that regardless of any blood draw performed based on the issuance of a warrant that he/she has the right to an independent blood test. I believe there is an immediate need to obtain this evidence in a timely manner because, based on my training and experience, alcohol and/or drug concentrations in the body change and are completely eliminated from the body simply with the passage of time. Therefore, the evidence is perishable in nature and a time delay would render it useless.

Based on the preceding facts, I am seeking a Telephonic Search warrant. This concludes my affidavit, Your Honor. Do I have your permission to sign your name to this affidavit and search warrant, and then execute the search warrant?

Judge _____ by _____
print full name initials of Affiant date

Affiant _____
signature date time

Witness _____
signature date

I will provide a recording of this call to your chambers as soon as possible. I will also place a copy of this recording into evidence.



SEARCH WARRANT

Investigation Number: _____ Date: _____

SUSPECT	DATE OF BIRTH
---------	---------------

Pursuant to the sworn application on the ____ day of _____, 20____ having been made by telephone and recorded in accordance with Section 46-5-222, Montana Code Annotated, by Officer _____, Badge # _____, and based on the immediate need as noted in the application, he/she has reason to believe that in the body of Suspect _____, date of birth _____, there is the following evidence:

- ☐ Alcohol and/or drugs that together with other evidence constitutes the crime of:
- | | |
|--|--|
| <input type="checkbox"/> Driving Under the Influence of Alcohol or Drugs as defined by Montana law, and/or | <input type="checkbox"/> Vehicular Homicide |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Negligent Vehicular Assault |

I am satisfied that there is probable cause to believe that the evidence described is in or upon the person described above and that such evidence is related to the crime as identified in the sworn affidavit.

You are hereby commanded to serve this warrant to obtain a proper sample of blood for subsequent testing of alcohol and/or drugs and to record any findings and document on a receipt for it, and then prepare and bring before me a written inventory verified by you of the evidence seized, all in the manner required by law. Service of this warrant may be made either during the daytime or at nighttime.

Judge _____ by _____
print full name initials of Affiant date

Judge _____
original signature date

SERVICE OF SEARCH WARRANT

This search warrant (or duplicate) was served on _____ day of _____, 20____.

_____	_____	_____	_____
officer's full name (printed)	officer's signature	badge number	date

KEEPER'S RECEIPT

Based on the telephonic search warrant issued on _____ (date) as provided above, the undersigned being the officer in Charge of property in this matter does herewith acknowledge that he/she has in custody _____ vial(s) of blood that have been seized as authorized by the search warrant and that he/she will hold and keep such evidence in the custody of _____ acting as custodian of such property, until it is sent to the Montana State Crime Laboratory, or other accredited laboratory, in accordance with all Administrative Rules of Montana for testing and storage or otherwise authorized by the proper judge.

Officer: _____ (Signature) _____ (Date)



RETURN OF SEARCH WARRANT

Investigation Number: _____

Date: _____

SUSPECT	DATE OF BIRTH
---------	---------------

I, Officer _____, by authority of a telephonic search warrant issued on _____ day
of _____, 20____ of _____ have searched and seized the following
items: _____ vial(s) of blood and/or (Other) _____
Number

I, Officer _____, being first duly sworn, deposes and says that I am the person named
in the above return and that I have prepared it; that all of the matters stated therein are true; that the list of evidence is true and
complete; and that a list has been delivered to the proper judge.

Officer _____
signature date

SWORN TO AND SUBSCRIBED TO before me on this _____ day of _____, 20__.

JUDGE

ORDER OF CUSTODY

WHEREAS there has been filed with this Court an application for a telephonic search warrant; and a telephonic search warrant has been duly issued by this Court; and a return to such search warrant and recording in accordance with Section 46-5-222, Montana Code Annotated, has been made listing all evidence seized pursuant to the law as provided above; and the Court having had an opportunity to inspect such evidence seized; and having a written inventory of the evidence seized; and

WHEREAS it appears from the nature of the evidence seized, and because of facilities available to the Court for storage of evidence, that to store the evidence and to better safeguard such evidence it would be practical and advantageous for the law enforcement agency executing the warrant to retain in custody the evidence seized.

NOW, THEREFORE, IT IS ORDERED, that the evidence seized pursuant to the search warrant heretofore issued and any evidence seized pursuant to law be retained in the custody of the Property Officer or other custodian of the agency executing the warrant, and/or transferred by the agency to any facility, including any forensic laboratory, for further testing as may be necessary.

Dated and signed this _____ day of _____, 20__.

JUDGE

Powder River Examiner -



County settles with Landa

A case against the Powder River County Commissioners was recently settled, resulting in Powder River County Justice of the Peace Cathy Landa's position being restored to full-time salary, and the Justice of the Peace office hours restored to full-time.

The case came about after a resolution made by the County Commissioners in September, 2017, which reduced the Justice of the Peace position from full time to 24 hours per week, and three fifths salary, effective January 1, 2019. The County Commissioners at the time were Darold Zimmer, Donna Giacometto, and Rod Schaffer.

The Commissioner's initial reasoning behind the reduction of hours, as published in the November 9, 2017 Examiner, and written in their own words, were as follows:

1. Time spent in the Justice of the Peace Office did not change when the position went from part-time to full-time. Still is only available in the office 3 days per week. Full-time status not warranted.
2. Powder River County population has steadily decreased, causing a larger burden on TaxPayers.
3. Future budget concerns.
4. Public concerns about office hours and Justice of the Peace not in office.
5. County share of revenue collected by Justice of the Peace has gone down steadily in past five years.

A meeting held in November of 2017, attended by members of the public showed a great deal of support for Landa to remain full-time. Despite the support from the public, the Commissioners voted for and passed the reduction in hours.

Landa's suit, filed in District Court, argued that the decision to reduce her time was a violation of her Montana constitutional rights under Article II, Section 8 – which states “The public has the right to expect governmental agencies to afford such reasonable opportunity for citizen participation in the operation of the agencies prior to the final decision as provided by law.”

The suit argued that the Justice of the Peace position was set as full time by previous resolutions to be paid the same salary as the Clerk of District Court (a full time position), and that the Commissioners changed the position without proper public notice or public comment period, thus violating Landa's right to public participation.

Over the years, Landa's office has handled an increasing case load of tickets – from 2007 to 2018 the number of tickets essentially doubled, from 629 to 1259.

A settlement was reached in the matter earlier this year, with the Justice Court returning to full time operation, as of June 1st, and returning to a staff of two-part time personnel. From January until June, the Justice of the Peace office had been open a limited number of hours due to the reduction. The settlement documents state that Landa's position was restored to full-time salary; she will also maintain office hours of 30 or more hours per week. A settlement amount of \$19,000 was paid to Landa's attorney's office, and a written policy and procedure ensuring public participation in agency decisions of substantial public interest will be instituted by the Commissioners. Additionally, a declaration in the agreement stated that all parties understand the Justice of the Peace position is part of the Judicial Branch, independent of the Commissioners.

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