



**AGENDA
CITY OF LAUREL
CITY COUNCIL WORKSHOP
TUESDAY, MARCH 26, 2019
6:30 PM
COUNCIL CHAMBERS**

Public Input: *Citizens may address the Council regarding any item of City business that is not on tonight's agenda. The duration for an individual speaking under Public Input is limited to three minutes. While all comments are welcome, the Council will not take action on any item not on the agenda. If a citizen would like to speak or comment regarding an item that is on tonight's agenda, we ask that you wait until the agenda item is presented to the Council by the Mayor and the public is asked to comment by the Mayor. Once again, each speaker is limited to three minutes.*

Be advised, if a discussion item has an upcoming public hearing, we would request members of the public to reserve your comments until the public hearing. At the public hearing, the City Council will establish an official record that will include all of your comments, testimony and written evidence. The City Council will base its decision on the record created during the public hearing. Any comments provided tonight will not be included in the record or considered by the City Council.

General Items

1. Appointment - Laurel Police Officer (Ryan Sedgwick)

Executive Review

2. Resolution - A Resolution Of The City Council Authorizing The Mayor To Sign A Contract With The Billings Family YMCA For The Operation And Management Of The City Of Laurel Municipal Pool.
3. Resolution No. R19-07: A Resolution Of The City Council Authorizing The Developer Of Iron Horse Station Subdivision To Install A Stormwater Pond Within Dedicated Parkland Within The Subdivision Pursuant To LMC 16.40.040.
4. Resolution No. R18-84: A Resolution Of The City Council Granting Permission For A Property Owner to Utilized Decorative Gravel And Rock Along A Portion Of The Boulevard Adjacent To The Owner's Property Located In The City Of Laurel.
5. Resolution - A Resolution Of The City Council Authorizing The Property Owner At 519 5th Avenue To Utilize The Boulevard Adjacent To The Property For Storage Of Materials Until The Weather Allows The Owner's Project To Proceed.

Council Issues

6. Ordinance No. O19-01: An Ordinance Amending Title 2, Chapters 2.08, 2.12, And 2.60 Of The Laurel Municipal Code For The Purpose Of Clarifying That Current City Employees Are Not Eligible To Serve As Members Of City Committees And Commissions Or To Serve As Elected City Officers In Accordance With Montana Law.

Other Items

Review of Draft Council Agendas

7. Review Draft Council Agenda for April 2, 2019.

Attendance at Upcoming Council Meeting

Announcements

The City makes reasonable accommodations for any known disability that may interfere with a person's ability to participate in this meeting. Persons needing accommodation must notify the City Clerk's Office to make needed arrangements. To make your request known, please call 406-628-7431, Ext. 2, or write to City Clerk, PO Box 10, Laurel, MT 59044, or present your request at City Hall, 115 West First Street, Laurel, Montana.

DATES TO REMEMBER

RESOLUTION NO. R19-__

**A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE MAYOR TO
SIGN A CONTRACT WITH THE BILLINGS FAMILY YMCA FOR THE OPERATION
AND MANAGEMENT OF THE CITY OF LAUREL MUNICIPAL POOL.**

BE IT RESOLVED by the City Council of the City of Laurel, Montana:

Section 1: Approval. The Contract between the City of Laurel and the YMCA for the operation and management of the Laurel City Pool, a copy attached hereto, is hereby approved.

Section 2: Execution. The Mayor and City Clerk of the City of Laurel are hereby given authority to execute said contract on behalf of the City.

Introduced at a regular meeting of the City Council on _____, by Council Member _____.

PASSED and ADOPTED by the City Council of the City of Laurel, Montana, this ____ day of _____.

APPROVED by the Mayor this __ day of _____, 2019.

CITY OF LAUREL

Thomas C. Nelson, Mayor

ATTEST:

Bethany Langve, Clerk-Treasurer

APPROVED AS TO FORM:

Sam Painter Civil City Attorney



March 8, 2019

TO: City of Laurel

RE: Proposal for Operation and Management of City of Laurel Municipal Pool

The Billings Family YMCA is proposing to provide operational management for the City of Laurel's municipal pool for the 2019 summer season, beginning June 3, 2019 and ending on August 16, 2019. The YMCA has the ability to offer a variety of aquatic programming to the community of Laurel as well as provide the staff necessary to manage day to day recreational swim opportunities.

YMCA Responsibilities:

The YMCA would develop, publish and implement a schedule of instructional opportunities, and recreational swimming activities that will be available to the community of Laurel. The YMCA is proposing to keep separate and remit all income from recreational, open, swimming to the City of Laurel at a daily rate established by the city. The YMCA would agree to deliver all monies collected to an established drop box at the close of business on a daily basis. The YMCA is also proposing to offer a variety of YMCA programming (see Appendix A) to the community in which any fees collected through a standard reduced rate Off-Site Membership practice, would remain with the YMCA. YMCA programming would be conducted either before or after the established open recreational swimming times.

Open recreational times in general would be conducted, but not limited to, Monday through Friday, 12:00pm to 5:00pm, Saturday and Sunday 1:00pm to 5:00pm. YMCA programming in general will be conducted, but not limited to, before and/or after open recreational swim times. The YMCA reserves the right to conduct programming during the open recreation times as bather load levels and traffic patterns permit.

The YMCA would use the pool during open recreational swim times for YMCA camp activities; however, participants would pay the established daily entrance fee. The YMCA would also agree to schedule these kinds of activities on a limited number of swimmers basis during lower load level and traffic patterns.

The YMCA would provide liability insurance of at least \$2,000,000.00 per occurrence during the term of this agreement. Such insurance would extend to both YMCA Officers and Directors and employees while they are operating and managing the swimming pool. The YMCA would also name the City of Laurel as an Additional Insured on said policy.

The YMCA would provide Workman's Compensation Insurance for all employees involved in the operation of the swimming pool in accordance with the laws of the State of Montana.

All personnel employed by the YMCA to supervise aquatic activities would have the following certifications:

Lifeguards: Current YMCA lifeguard or American Red Cross Lifeguard and BLS (Basic Life Support), First Aid, Oxygen administration, and AED Certified.

Instructors: Currently hold a minimum of one of the following: YMCA Swim Instructor, Principles of YMCA Aquatic Leadership, American Red Cross Water Safety Instructor.

All personnel required for the operation of the swimming pool would be employed by the YMCA.

All YMCA personnel will adhere to established aquatic code of conduct, workplace activity requirements.

YMCA staff would be responsible for conducting and recording water chemistry readings at least 3 times per day, or as necessary to comply with state regulation.

YMCA staff would be responsible for general janitorial maintenance of the deck areas and pool buildings, as well as vacuuming the pool.

YMCA staff would make the decision to operate, or not operate, the swimming pool during periods of inclement weather or during other conditions, which may present a hazard to the swimmers and/or employees. If weather or other conditions dictate closure of the pool, the YMCA would re-open the pool if at least 1 hour remains in the scheduled time.

The YMCA would establish policies regarding safety, security, employee and patron conduct on the premises of the pool, including current YMCA swim testing and age requirement protocol.

City of Laurel Responsibilities:

The City of Laurel would be responsible for managing water chemistry, chemical additions to pool, mechanical systems and maintenance of the swimming pool, structure and associated buildings and equipment.

The City of Laurel through the local law enforcement would be responsible for the security and protection of the swimming pool, including YMCA employees and patrons.

The City of Laurel would provide all necessary maintenance, water chemistry and janitorial supplies as well as provide a pool vacuum for Y staff use, for the operation of the pool.

The City of Laurel would provide and maintain necessary ADA Lift equipment.

Management

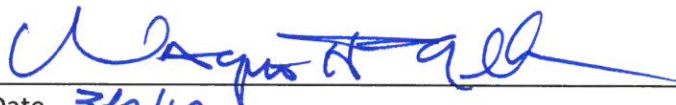
As compensation for managing and operating the swimming pool, the City would agree to pay the YMCA a seasonal management fee for pool operations beginning June 3, 2019 through August 16, 2019. YMCA staff would need access to the facility several days before and after these dates for preparation, cleaning and equipment logistics. The YMCA proposes a total cost of \$45,600 for the 2019 summer season. The City would agree to remit 2 installments of \$16,200 on or before the 1st day of July, the 1st day of August and \$13,200 on the 1st day of September. Under this proposal, the pool would be open to the community for recreational, open swim, a maximum of 33 hours per week. The YMCA will offer aquatic programming including, but not limited to, swim lessons and lap swimming depending on community interest, either before or after the established recreational hours of 12 to 5pm Monday-Friday and 1-5pm Saturday and Sunday. The YMCA will exclude the July 4th Holiday from operation.

The YMCA and the City of Laurel would agree to meet on a regular basis, at least monthly, and additionally as the need arises, to discuss operational needs and patron feedback.

The YMCA Pool Manager, Aquatic Director, COO, CEO, in succession, will field patron feedback issues as necessary for resolution. The YMCA and the City of Laurel would agree to communicate any feedback either receives.

The YMCA's area of responsibility would be limited to the fenced pool area. The scope of general liability responsibility of the YMCA will begin when patrons enter the fenced pool area and ceases upon leaving the fenced pool area.

Billings Family YMCA


Date 3/8/19

City of Laurel

Date _____

Appendix A Program Description

Swim Lessons

The YMCA Swim Lessons program helps participants develop a solid foundation of basic aquatic skills, helping them develop a lifelong appreciation for aquatic activities, including swimming and introducing them to a variety of aquatic sports, as well as water safety and lifeguarding.

The Swim Lessons Program begins at 3 years of age and is divided into several levels per age group:

- Level 1. Water Acclimation
- Level 2. Water Movement
- Level 3. Water Stamina
- Level 4. Stroke Introduction

Private lessons available

At each level, participants are involved in activities relating to six components:

1. Personal safety
2. Personal growth
3. Forward Motion
4. Water games and sports
5. Rescue
6. Core Values (Honesty, Caring, Respect, Responsibility)

Lap Swim

Lap swimming remains one the most beneficial fitness activities that can be enjoyed at any age, or as part of any physical fitness routine.

Appendix B YMCA Pricing

The YMCA employs a pricing structure for programs that rewards membership to the YMCA by means of financial savings. The YMCA has a scholarship process available to anyone so that no one is turned away due to inability to pay. The YMCA has 3 categories of program registration based on membership type.

- YMCA Member- Being a YMCA member offers many benefits for the entire family including access to all the services and amenities at the YMCA facility in Billings. It also offers the most economical pricing on all fee based programs. There are many non-fee based services and activities that go with membership, including free child watch, unlimited access to **over100** group exercise classes per week, both land and water, and access to open gym time and swimming activities.
- Off-Site Member- Becoming a YMCA Off-Site member is an option for people who live outside the city of Billings to realize a financial savings on various programming offered throughout Yellowstone County. This type of membership does not allow access to the YMCA facility in Billings. This type of membership requires an annual \$55 fee, which then allows registration for any YMCA programs under the Off-Site member category where applicable.
- Non-member - We encourage everyone, regardless of membership, to take advantage of the many opportunities and activities available through YMCA programming.

Laurel Aquatics Program Pricing

Swim Lessons are 2 weeks per session, M-Th)

Member	\$50
Off-Site Member	\$60
Non-Member	\$80

Lap Swimming, available on daily fee, punch card basis.

YMCA programming is subject to minimum participation number system.

Item Attachment Documents:

3. Resolution No. R19-07: A Resolution Of The City Council Authorizing The Developer Of Iron Horse Station Subdivision To Install A Stormwater Pond Within Dedicated Parkland Within The Subdivision Pursuant To LMC 16.40.040.

RESOLUTION NO. R09-07

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE DEVELOPER OF IRON HORSE STATION SUBDIVISION TO INSTALL A STORMWATER POND WITHIN DEDICATED PARKLAND WITHIN THE SUBDIVISION PURSUANT TO LMC 16.40.040.

WHEREAS, pursuant to LMC 16.40.040 the City Council may authorize the construction or installation of stormwater ponds within public parkland if the stormwater pond constitutes an amenity to the park; and

WHEREAS, the developer of Iron Horse Subdivision requested permission to install a stormwater pond within the subdivision which will subsequently be utilized as an amenity as future development occurs; and

WHEREAS, the City's Park Board considered the request and has approved such request, and further recommends approval of the same by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Laurel, Montana, that the City Council hereby approves the installation and/or construction of a stormwater pond in the parkland area as described and shown on the attached exhibits which are attached hereto and by this reference made a part of this resolution.

Introduced at a regular meeting of the City Council on April 2, 2019, by Council Member

_____.

PASSED and APPROVED by the City Council of the City of Laurel this 2nd day of April 2019.

APPROVED by the Mayor this 2nd day of April 2019.

CITY OF LAUREL

Thomas C. Nelson, Mayor

ATTEST:

Bethany Langve, Clerk-Treasurer

Approved as to form:

Sam S. Painter, Civil City Attorney

CITY HALL
115 W. 1ST ST.
MAYOR OFC.: 628-8456
PUB. WORKS: 628-4796
WATER OFC.: 628-7431
COURT: 628-1964
FAX 628-2241

City Of Laurel

P.O. Box 10
Laurel, Montana 59044



Park Board

March 4, 2019

Mayor and City Council

Re, Iron Horse Station Subdivision, allowing a stormwater pond in park area.

The developer of Iron Horse Station Subdivision is proposing to install a stormwater pond in lands that were dedicated to be used as a park. Stormwater ponds are allowed in dedicated parkland as per Laurel’s Municipal Code 16.40.040 if they are designed as an amenity to the park. The final design for the stormwater pond will be presented to the Park Board in the future if the City Council approves the pond to be included as an amenity to this park area.

On February 7, 2019 the Park Board voted 5-0 to recommend to the City Council allowing the developer to install a stormwater pond in the park area of block 8 of Iron Horse Station Subdivision. This permission is needed in order to finalize the design plans for the streets, water and sewer line installations.

Respectfully,

Scott Stokes
Chairperson

Attached; Proposed Pond Exhibit
 LMC 16.40.040

mine whether the park dedication must be a land donation, cash donation, or a combination of both. The combination could include some land dedication to meet the requirement with the cash-in-lieu balance going toward park improvements on the land dedicated. In determining whether land or cash is suitable, proximity to existing parks, including schools and other public or private recreational facilities shall be considered.

D. A park maintenance district shall be formed or expanded with any new parkland dedication. (Ord. 07-01 (part), 2007)

16.40.020 School land dedication in lieu of park land dedication (MCA Section 76-3-621(8)).

Subject to the approval of the governing body and acceptance by the Laurel school board of trustees, a subdivider may dedicate land as required by herein to the school district. (Ord. 07-01 (part), 2007)

16.40.030 Linear park land dedication for trail corridors.

To be consistent with Laurel's bike/ped plan heritage trail plan, city and county GMP's, and the Yellowstone River greenway master plan linear parks for trails may be counted toward the required parkland dedication. (Ord. 07-01 (part), 2007)

16.40.040 Stormwater detention/retention ponds in parks.

Stormwater detention or retention ponds may be located within public park land, but such areas shall not count toward the park land dedication requirement unless they are designed and constructed to serve as an amenity to the park and fit into the planned uses and improvements to the park. An example of a stormwater detention area that is an amenity

to a park could be several ponds with water features connecting them designed to have a trail around them with picnic shelters. (Ord. 07-01 (part), 2007)

16.40.050 Determining cash contribution for park land.

Upon submittal of a final plat application, the subdivider shall provide one of the following to verify the fair market value of the land being subdivided that supports the cash contribution for park land the subdivider is providing:

A. A comparative market analysis performed by a licensed realtor that meets the following criteria:

1. It provides the per acre sale price of at least three comparable parcels of land;
2. The comparable sales must have occurred within one year of the date of the subdivision final plat application submittal; and
3. The comparable sales must be within two miles of the subdivision.

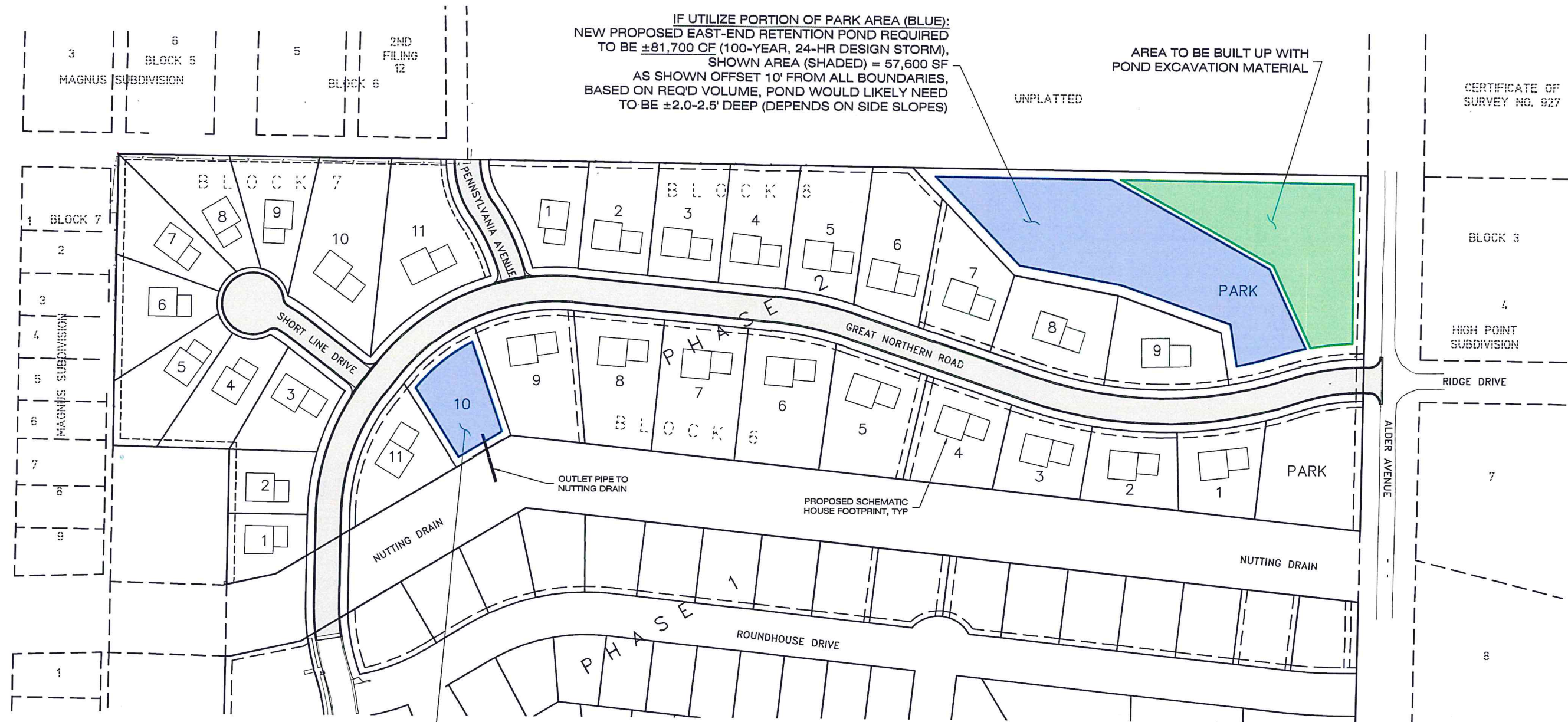
B. A raw land appraisal by a licensed appraiser.

C. The sale price of the property being subdivided if it was purchased within one year of the date of the subdivision final plat application submittal. (Ord. 07-01 (part), 2007)

16.40.060 Use of dedicated money or land for parks (MCA Section 76-3-621(5)).

The appropriate governing body shall use the dedicated money or land for development, acquisition, or maintenance of parks to serve the subdivision and community as follows:

A. The governing body may use the dedicated money to acquire, develop, or maintain, within its jurisdiction, parks, or recreational areas, or use the money for the purchase of



IF UTILIZE PORTION OF PARK AREA (BLUE):
NEW PROPOSED EAST-END RETENTION POND REQUIRED
TO BE $\pm 81,700$ CF (100-YEAR, 24-HR DESIGN STORM),
SHOWN AREA (SHADED) = 57,600 SF
AS SHOWN OFFSET 10' FROM ALL BOUNDARIES,
BASED ON REQ'D VOLUME, POND WOULD LIKELY NEED
TO BE ± 2.0 -2.5' DEEP (DEPENDS ON SIDE SLOPES)

AREA TO BE BUILT UP WITH
POND EXCAVATION MATERIAL

UNPLATTED

CERTIFICATE OF
SURVEY NO. 927

PARK

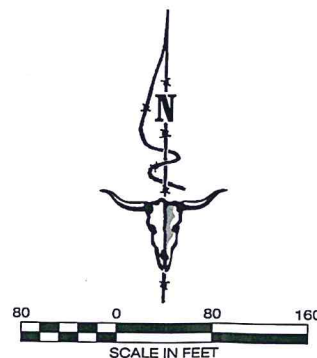
PARK

OUTLET PIPE TO
NUTTING DRAIN

PROPOSED SCHEMATIC
HOUSE FOOTPRINT, TYP

NUTTING DRAIN

NEW PROPOSED WEST-END DETENTION POND ON LOT 10,
REQUIRED TO BE $\pm 35,000$ CF (POST-DEV)
(100-YEAR, 24-HR DESIGN STORM)
LOT 10 TOTAL AREA = 16,594 SF
AVAILABLE LOT 10 AREA (NO EASEMENT) = 15,570 SF
IF OFFSET 5' FROM AVAILABLE AREA = 13,159 SF
BASED ON REQ'D VOLUME, POND WOULD LIKELY NEED
TO BE ± 3.5 '-4.0' DEEP (DEPENDS ON SIDE SLOPE)



TERRITORIAL LANDWORKS, INC. CIVIL ENGINEERING • SURVEYING • LAND USE CONSULTING www.TerritorialLandworks.com P.O. Box 3851 Missoula, MT 59806 PLAT DATE: 2/20/19 9:27 AM	
DESIGNED:	DATE:
DRAFTED:	REVISIONS:
CHECKED:	DATE:
LOCATION: SECTION 9, T2S, R24E, P.M.M. CITY OF LAUREL YELLOWSTONE COUNTY, MONTANA PREPARED FOR: IRON HORSE STATION LLC	
PROJECT NAME: IRON HORSE STATION SUBDIVISION PHASE II	SHEET TITLE: PROPOSED POND EXHIBIT OPTION 1
PROJECT NO. 18-5048	SHEET: 1 OF 1
PRELIMINARY	

Item Attachment Documents:

4. Resolution No. R18-84: A Resolution Of The City Council Granting Permission For A Property Owner to Utilized Decorative Gravel And Rock Along A Portion Of The Boulevard Adjacent To The Owner's Property Located In The City Of Laurel.

RESOLUTION NO. R18-84

A RESOLUTION OF THE CITY COUNCIL GRANTING PERMISSION FOR A PROPERTY OWNER TO UTILIZE DECORATIVE GRAVEL AND ROCK ALONG A PORTION OF THE BOULEVARD ADJACENT TO THE OWNER'S PROPERTY LOCATED IN THE CITY OF LAUREL.

WHEREAS, the owner of the property located at 519 5th Avenue, in the City of Laurel, desires to change a portion of the boulevard located along the 6th Street portion of his property from grass to decorative gravel and rock; and

WHEREAS, Chapter 12.32.010 of the Laurel Municipal Code Laurel currently requires all boulevard's to be kept in grass and trees unless specific permission is granted for other purposes; and

WHEREAS, the property owner has filed a written request, in the attached letter which is hereby incorporated herein, seeking the City Council's permission to install decorative gravel and rock instead of the existing grass in the boulevard along the 6th Street portion of his property; and

WHEREAS, based on the location of the request, the City Council finds no reason to deny the request since the overall purpose of the City Code will remain unaffected regardless of the exception granted the property owner.

NOW THEREFORE BE IT RESOLVED the City Council of Laurel hereby grants permission, pursuant to Chapter 12.32.010 of the Laurel Municipal Code, to the property owner at 519 5th Avenue, Laurel Montana, to change a portion of the boulevard located along 6th Street near the property from grass to decorative gravel and rock; and

BE IT FURTHER RESOLVED, if the property owner removes the gravel and rock, he/she shall return the same to grass. Tree Planting shall be in accordance with the Laurel Municipal Code.

Introduced at a meeting of the City Council on December 4, 2018, by Council Member _____.

PASSED and ADOPTED by the City Council of the City of Laurel, Montana, this 4th day of December 2018.

CITY OF LAUREL

Thomas C. Nelson, Mayor

ATTEST:

Bethany Langve, Clerk-Treasurer

APPROVED AS TO FORM:

Sam Painter Civil City Attorney

Tabled indefinitely
7-0

CODE ENFORCEMENT FIELD NOTES

No.: 18-10207

Location: 519 5th Avenue

Legal Description: Township: 02 S Range: 24 E Section: 09

Subdivision: Laurel Heights Block: 14 Lot(s): 11-12

Geo Code: 03-0821-09-3-38-07-0000 COS: Tax ID: B00695

Owner: George H & Joey D Eastman 406-281-0122

Address: 519 5th Avenue Laurel, MT 59044-2311



1st Inspection: 10/16/18: Inspection finds that the piles of rock that had been reported on September 25, 2018 still remain on the boulevard constituting storage on the boulevard in violation of LMC §12.32.010.

1 photo taken

10/24/18: Call from George stating that he was taking out the grass and replacing it with gravel and rock on his boulevard along the W. 6th Street side back to the alley. I stated that he would need to send letter to City Council to get permission to allow him to do so as this is what the LMC states. He stated that he would do so and requested an extension until he finds out if possible. Extension granted.

11/9/18: Per Brittney Moorman the request has been placed on the 11/27/18 agenda for City Council.

Notice Sent: 10/17/18 Follow-Up Date: _____

2nd Inspection: _____

Notice Sent: _____ Follow-Up Date: _____

Certified: _____

Follow-Up: _____

Violation Resolution: _____ Compliance: _____ Citation: _____

No Violation:

Dear Sir or Madam,

I am writing to ask permission to keep my landscape rocks on the boulevard at 519 5th Ave. on the 6th street side.

I am currently doing some landscaping in my front and back yard. The large rocks are for finishing the back yard. They are very heavy and I would like to only have to move them once. I plan to be finished with the landscaping by mid-spring of 2019. I plan to work on it through the winter, weather permitting.

I would also like to ask permission to ~~remove~~ place ground cover on the boulevard and cover it with gravel. I also plan to plant some trees if it may.

Thank you for your time and consideration.

George H. Eastman

9-2-18

George Eastman

Chapter 12.32

TREES AND BOULEVARDS*

Sections:

- 12.32.010 Boulevards to be kept in grass and trees.
- 12.32.020 Boulevards—Regulation of trees on.
- 12.32.030 Cottonwood trees prohibited.
- 12.32.040 Definitions.
- 12.32.050 Creation and establishment of a city tree board.
- 12.32.060 Term of office.
- 12.32.070 Compensation.
- 12.32.080 Duties and responsibilities.
- 12.32.090 Operation.
- 12.32.100 Tree species to be planted.
- 12.32.110 Spacing.
- 12.32.120 Distance from curb and sidewalk.
- 12.32.130 Distance from street corners and fireplugs.
- 12.32.140 Utilities.
- 12.32.150 Public tree care.
- 12.32.160 Pruning standards.
- 12.32.170 Tree topping.
- 12.32.180 Pruning and corner clearance.
- 12.32.190 Dead or diseased tree removal on private property.
- 12.32.200 Protection of trees.
- 12.32.210 Interference with the city tree board.
- 12.32.220 Arborist's license and bond.

12.32.230 Authority of adjoining property owner to plant or care for trees on boulevard or parkways.

12.32.240 Removal, cutting and injury.

12.32.250 Interference with trees by house mover, permit required.

12.32.260 Procedure for temporary removal.

12.32.270 Insects and diseases—Declared nuisance.

12.32.280 Spraying.

12.32.290 Review by the city council.

12.32.300 Violation—Penalty.

* Prior code history: Prior code §§ 11.36.010, 20.12.010 and 20.12.020.

12.32.010 Boulevards to be kept in grass and trees.

All boulevard areas must be kept in grass and trees unless specific permission is granted by the city council for other purposes. Any person failing to comply or violating the provisions of this section shall be deemed guilty of a misdemeanor. (Ord. 05-1 (part), 2005)

12.32.020 Boulevards—Regulation of trees on.

The owner of property adjoining a boulevard shall be responsible for the care and maintenance of the boulevard and he shall keep the trees planted thereon trimmed and in a condition so that the same shall not be a public nuisance; and, if necessary for the city to remove any trees from such boulevard, the costs of such removal shall be assessed against the abutting property owner. (Ord. 05-1 (part), 2005)

12.32.030 Cottonwood trees prohibited.

No cottonwood trees shall be planted or allowed to grow on private property or



12.16.010 - Encumbering or obstructing streets—Permit required.

No person shall encumber or obstruct, or cause to be encumbered or obstructed, any street, sidewalk, alley or other public place in the city by placing therein or thereon any building materials, trash, vehicle, earth, garbage, rubbish, debris, or accumulated snow and ice removed from an adjoining private premises, without first having obtained permission in writing from the city clerk-treasurer, or other responsible city official.

(Ord. 97-2 § 4 (part), 1997; prior code § 11.12.010)

12.16.020 - Removal of obstruction—Authority to order.

The city engineer or chief of police is authorized to order any article or thing, of the kind mentioned in Section 12.16.010, which encumbers, litters or obstructs any street, sidewalk, alley or other public place within the city, to be removed. If such removal shall not be made within six hours after notice to the owner or person in charge thereof, or if the owner cannot be readily found for the purpose of the notice, the city shall cause the same to be removed to some suitable place to be designated by such official, at the expense of the person responsible therefor.

(Prior code § 11.12.020)

Item Attachment Documents:

5. Resolution - A Resolution Of The City Council Authorizing The Property Owner At 519 5th Avenue To Utilize The Boulevard Adjacent To The Property For Storage Of Materials Until The Weather Allows The Owner's Project To Proceed.

RESOLUTION NO. R19-___

A RESOLUTION OF THE CITY COUNCIL AUTHORIZING THE PROPERTY OWNER AT 519 5TH AVENUE TO UTILIZE THE BOULEVARD ADJACENT TO THE PROPERTY FOR STORAGE OF MATERIALS UNTIL THE WEATHER ALLOWS THE OWNER'S PROJECT TO PROCEED.

WHEREAS, the owner of the property located at 519 5th Avenue, in the City of Laurel, desires to change a portion of the boulevard located along the 6th Street portion of his property from grass to gravel and rock; and

WHEREAS, Chapter 12.32.010 of the Laurel Municipal Code Laurel currently requires all boulevard's to be kept in grass and trees unless specific permission is granted for other purposes; and

WHEREAS, the property owner has filed a written request seeking the City Council's permission to install decorative gravel and rock instead of the existing grass in the boulevard along the 6th Street portion of his property; and

WHEREAS, the property owner requests authority to store the gravel and rock upon the boulevard until the weather improves to enable the owner's project to proceed.

NOW THEREFORE BE IT RESOLVED the City Council of Laurel hereby grants permission to the property owner at 519 5th Avenue, Laurel Montana, to store the rock and gravel on the boulevard until the City Council makes a decision on the owner's request to utilize gravel and rock.

BE IT FURTHER RESOLVED, if the City Council declines to approve the property owner's request, the he shall remove the stockpiled material within forty five days of the City Council's decision.

Introduced at a meeting of the City Council on _____, 2019, by Council Member _____.

PASSED and ADOPTED by the City Council of the City of Laurel, Montana, this ___ day of _____ 2019.

CITY OF LAUREL

Thomas C. Nelson, Mayor

ATTEST:

Bethany Langve, Clerk-Treasurer

APPROVED AS TO FORM:

Sam Painter Civil City Attorney

Item Attachment Documents:

6. Ordinance No. O19-01: An Ordinance Amending Title 2, Chapters 2.08, 2.12, And 2.60 Of The Laurel Municipal Code For The Purpose Of Clarifying That Current City Employees Are Not Eligible To Serve As Members Of City Committees And Commissions Or To Serve As Elected City Officers In Accordance With Montana Law.

ORDNANCE NO O19-01

AN ORDINANCE AMENDING TITLE 2, CHAPTERS 2.08, 2.12, AND 2.60 OF THE LAUREL MUNICIPAL CODE FOR THE PURPOSE OF CLARIFYING THAT CURRENT CITY EMPLOYEES ARE NOT ELIGIBLE TO SERVE AS MEMBERS OF CITY COMMITTEES AND COMMISSIONS OR TO SERVE AS ELECTED CITY OFFICERS IN ACCORDANCE WITH MONTANA LAW.

WHEREAS, the City Council desires to keep the Laurel Municipal Code current by modifying and updating chapters, sections and subsections to address situations and problems within the City and to remain in accordance with Montana law; and

WHEREAS, Montana law specifically prohibits employees of a city, town or county from serving in elected positions since the positions of employees and elected officials are incompatible as a matter of law; and

WHEREAS, the City of Laurel's LMC requires an amendment to clarify the Montana law as related to the doctrine of incompatible positions to avoid future issues; and

WHEREAS, upon request of the Mayor, the ordinance amendments were prepared to be adopted and incorporated into the existing Title 2 as noted herein and the Mayor hereby recommends the same to the City Council for their full approval as follows:

2.08.240 Standing committees.

At the first regular meeting of the council, after the first Monday in January following a city election, the mayor shall appoint standing committees as follows:

- A. Public Works;
- B. Budget and Finance;
- C. Emergency Services;
- D. Human Relations.

Each committee shall consist of not more than four councilpersons and such other private individuals as the mayor shall appoint. All appointments shall be approved by a majority of the council.

City employees are not eligible to serve as members on City Standing committees. (Ord. 99-24, 1999; Ord. 1012, 1992; prior code § 2.12.170)

2.08.250 Special committees.

The mayor shall from time to time appoint such other standing or temporary committees of the council as shall be authorized, for any purpose by a majority vote of the council. City employees are not eligible to serve as members on City Special committees. (Prior code § 2.12.180)

2.12.020 Elective and appointive offices.

The elective ~~officers~~ offices of the city consist of one mayor, two aldermen from each ward, and one city judge, who must be elected by the qualified electors of the city as provided in M.C.A. § 7-4-4102. There may also be appointed offices that are appointed by the mayor, with the advice and consent of the council, one city clerk-treasurer, who is ex officio city assessor, director of public works, assistant director of public works, engineer, maintenance director, public utilities director, and any other officer necessary to carry out the provisions of this title. The city council may prescribe the duties of all city officers and fix their compensation subject to the limitations contained in the city ordinances and state law. (Ord. 02-7, 2002; Ord. 97-2 § 1, 1997; Ord. 1000, 1991; prior code § 2.04.020)

2.12.030 Eligibility to elective office.

No person is eligible to any elective office who is a current employee of the city, not a citizen of the United States and who has not resided in the city or an area which has been annexed thereto for at least two years immediately preceding his election and who is not a qualified elector thereof. (Prior code § 2.04.030)

2.60.100 Police commission—Appointment—Terms and conditions of office.

The mayor shall nominate, with the consent of the council, three residents of the city, who shall have the qualifications required by law to hold a city board to be known by the name of “police commission,” and who shall hold office for three years. City employees and individuals serving in city elected offices are not eligible to serve as Police commission members. One member of such board must be appointed annually at the first meeting of the council in May of each year. (Prior code § 2.20.150)

This Ordinance shall become effective thirty (30) days after final passage by the City Council and approved by the Mayor.

Introduced and passed on first reading at a regular meeting of the City Council on _____, 2019, by Council Member _____.

PASSED and ADOPTED by the Laurel City Council on second reading this _____ day of April upon motion of Council Member _____.

APPROVED BY THE MAYOR this 2nd day of April 2019.

CITY OF LAUREL

Thomas C. Nelson, Mayor

ATTEST:

Bethany Langve, Clerk-Treasurer

Approved as to form:

Sam S. Painter, Civil City Attorney

ATTORNEY GENERAL

STATE OF MONTANA

Tim Fox
Attorney General



Department of Justice
Joseph P. Mazurek Justice Bldg.
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401



May 4, 2018

Brian J. West
City Attorney
Town of Stevensville
P.O. Box 30
Stevensville, MT 59870

Re: **Request for guidance – doctrine of incompatible offices**

Dear Mr. West:

On behalf of the Town of Stevensville, you have requested “legal guidance” under facts which indicate the “doctrine of incompatible offices.” Because your question is answered in cases and Attorney General Opinions that your research revealed, as well as others, we provide a letter of advice. This is not a formal Attorney General Opinion and should not be presented as such.

As explained in *Klick v. Wittmer*, 50 Mont. 22, 24-25, 144 P. 648, 649-50 (Mont. 1914) (which you cite), offices are incompatible when one has power of removal of the other, when one is in any way subordinate to the other, when one has power of supervision over the other, or when the nature of the duties of the two offices are such as to render it improper, from considerations of public policy, for one person to retain both.

In this situation, the recently elected Mayor of Stevensville was at the time of election also a fireman in the town’s volunteer fire department. Under Title 7 of the Montana Code Annotated – Local Government – the mayor exercises appointment authority for the fire chief, assistant chief and all firefighters. Mont. Code Ann. §7-33-4106, cited in your request. The mayor may also suspend the chief, assistant chief or any firefighter for neglect of duty. *Id.* at § 4122. The hearing procedure after suspension is detailed in Mont. Code Ann. §7-33-4124. After hearing, the firefighter may be removed. *Id.* at § 4124(4).

The request points out that the mayor has no statutory authority to *remove* a firefighter, but the mayor may certainly suspend a firefighter and initiate the removal process. Under *Klick* and the statutes, the mayor arguably has “power of removal” over firefighters by initiating the process with a suspension. As such, firefighters are subordinate to the mayor. The doctrine explained in

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MONTANA DEPARTMENT OF JUSTICE

Legal Services Division ★ Division of Criminal Investigation ★ Highway Patrol Division ★ Forensic Science Division
Gambling Control Division ★ Motor Vehicle Division ★ Information Technology Services Division ★ Central Services Division

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Brian West
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Klick is still recognized. See *Zunski v. Frenchtown Rural Fire Dep't Bd. of Trs.*, 2013 MT 258 ¶¶ 20-21.

As stated in 43 Op. Att'y Gen. No. 47 (1989), "the operation of the doctrine of incompatible offices is quite simple. Acceptance of a second public office incompatible with a current public position operates as an implied resignation from the latter position." *Id.* at 165, citing *Klick*. The facts of that AGO involved one person being a board member of both a volunteer fire department and a fire service area board. The two entities were separate government entities, and one was not dependent upon the other for creation or continued existence. In 27 Op. Att'y Gen. No. 81 (1958), one person being both a deputy school superintendent and a deputy probation officer did not violate the doctrine, since one did not control the other. "Plainly the deputy probation officer has no authority or power to supervise the deputy superintendent of schools or appoint or remove her from office or vice versa." *Id.* at 177.

However, 46 Op. Att'y Gen. No. 26 (1996) determined that one person cannot be both a county commissioner and the county coordinator of disaster and emergency services, since "the commissioners have the power of supervision, revision, and removal over the position of DES coordinator." *Id.* at 2. The Missoula City Attorney also relies on *Klick* in this regard. See Legal Opinion 2011-001, attached, which determined that a city employee may not also serve as a city council member. These last two opinions are most analogous to the situation that you have described in Stevensville.

Under these authorities, because the mayor has appointment and suspension control over firefighters, the doctrine of incompatible offices as explained in *Klick* applies, preventing the recently elected mayor from maintaining his position as a firefighter in Stevensville's volunteer fire department.

Again, this letter is in response to your request for a letter of advice, is not a formal Opinion of the Attorney General and should not be presented as an Attorney General Opinion.

Very truly yours,



PATRICK M. RISKEN

encl.

OFFICE OF THE CITY ATTORNEY

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Legal Opinion 2011-001

TO: John Engen, Mayor; City Council; Bruce Bender, Chief Administrative Officer;
Brentt Ramharter, Finance Director; Dept. City Clerk; Dept. Human Resources

CC: Legal Staff

FROM: Jim Nugent, City Attorney

DATE: January 7, 2011

RE: A city employee may not simultaneously serve as a city council member
pursuant to the legal doctrine of incompatible offices

FACTS:

Ward 2 currently has a vacant city council position after the resignation of Roy Houseman. Reportedly, a city employee has expressed interest in appointment to fill the vacant position.

ISSUE:

May a city employee simultaneously serve as a city council member?

CONCLUSION:

No, pursuant to the legal doctrine of incompatible offices, a city employee may not simultaneously serve as a city council member.

LEGAL DISCUSSION:

The Montana Attorney General held a city public works employee or director cannot be a member of the city council. 47 Op. Att'y Gen. 19 (1998). Pursuant to Mont. Code Ann. § 2-15-501(7) "the attorney general's opinion is controlling unless overruled by a state district court or the supreme court."

In his 1998 opinion, Attorney General Joe Mazurek stated in pertinent part:

As noted in Mr. Burns' letter, the question of whether a city employee sitting on the city council presents a conflict of interest was previously addressed in 41 Op. Att'y Gen. No. 81 (1986). In that opinion, former Attorney General Mike Greely held that there is no inherent conflict of interest when an employee of the City of Glendive is also an elected member of the city council. That opinion provides the controlling answer to Mr. Burns' initial question regarding a possible conflict of interest.

However, adoption of a conflict-of-interest statute in no way abrogates the common law rule against the holding of incompatible positions. Tarpo v. Bowman Pub. Sch. Dist. No. 1, 232 N.W.2d 67, 71 (N.D. 1975). Because I conclude that the doctrine of incompatible offices prevents a public works employee or director from serving as a city council member, as well as a hospital employee from serving as a trustee of the hospital district, it is not necessary to further analyze the conflict of interest issue.

The Montana Supreme Court has recognized that two offices are incompatible when one has the power of removal over the other, when one is in any way subordinate to the other, when one has the power of supervision over the other, or when the nature and duties of the two offices are such as to render it improper, from considerations of public policy, for one person to retain both. State ex rel. Klick v. Wittmer, 50 Mont. 22, 144 P. 648 (1914).

The doctrine of incompatible public offices eliminates the public policy concerns inherent in the simultaneous holding of multiple public offices or positions by:

(1) preventing multiple position-holding, so that offices and positions of public trust do not accumulate in a single person; (2) preventing individuals from deriving, directly or indirectly, any pecuniary benefit by virtue of their dual position-holding; (3) avoiding the inherent conflict which occurs when an employee's elected position has revisory power over the employee's superior in another position; and (4) ensuring, generally, that public officeholders and public employees discharge their duties with undivided loyalty.

46 Op. Att'y Gen. No. 26 (1996), citing 43 Op. Att'y Gen. No. 47 at 165 (1989), which cites Acevedo v. City of North Pole, 672 P.2d 130, 134 (Alaska 1983).

In 46 Op. Att'y Gen. No. 26, I also concluded that the common law doctrine of incompatible public offices applies to public employees, as well as to public office holders, and that a county employee appointed by a board of county commissioners and paid by the county cannot serve on the board of commissioners for the same county.

The common-law doctrine of incompatibility extends to positions of public employment as well as public offices. See, e.g., Otradovec v. City of Green Bay, 347 N.W.2d 614 (Wis. Ct. App. 1984). As the Wyoming Supreme Court has stated, it is "inimical to the public interest for one in public employment to be both the employer and the employee or the supervisor and the supervised." Thomas v. Dremmel, 868 P.2d 263, 264 (Wyo. 1994), quoting Haskins v. State ex rel. Harrington, 516 P.2d 1171 (Wyo. 1973).

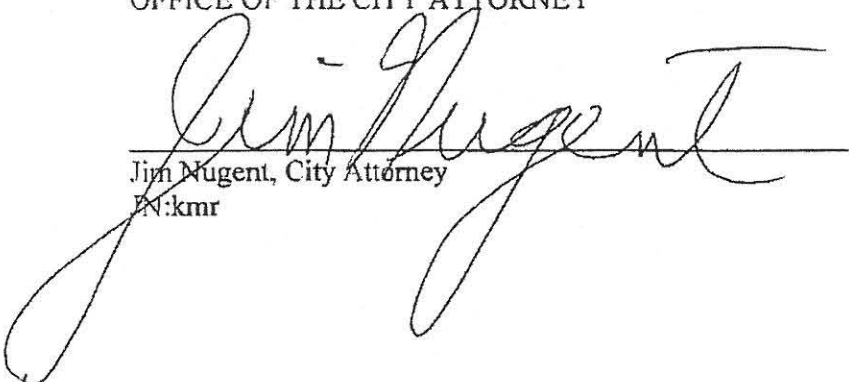
46 Op. Att'y Gen. No. 26.

47 Op. Att'y Gen. 19 (1998) (copy attached).

CONCLUSION:

No, pursuant to the legal doctrine of incompatible offices, a city employee may not simultaneously serve as a city council member.

OFFICE OF THE CITY ATTORNEY



Jim Nugent, City Attorney
EN:kmr

Item Attachment Documents:

7. Review Draft Council Agenda for April 2, 2019.



**AGENDA
CITY OF LAUREL
CITY COUNCIL MEETING
TUESDAY, APRIL 02, 2019
6:30 PM
COUNCIL CHAMBERS**

NEXT RES. NO.
R19-10

NEXT ORD. NO.
O19-02

WELCOME . . . By your presence in the City Council Chambers, you are participating in the process of representative government. To encourage that participation, the City Council has specified times for citizen comments on its agenda -- once following the Consent Agenda, at which time citizens may address the Council concerning any brief community announcement not to exceed one minute in duration for any speaker; and again following Items Removed from the Consent Agenda, at which time citizens may address the Council on any matter of City business that is not on tonight's agenda. Each speaker will be limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council. Citizens may also comment on any item removed from the consent agenda prior to council action, with each speaker limited to three minutes, unless the time limit is extended by the Mayor with the consent of the Council. If a citizen would like to comment on an agenda item, we ask that you wait until the agenda item is presented to the Council by the Mayor and the public is asked to comment by the Mayor. Once again, each speaker is limited to three minutes.

Any person who has any question concerning any agenda item may call the City Clerk-Treasurer's office to make an inquiry concerning the nature of the item described on the agenda. Your City government welcomes your interest and hopes you will attend the Laurel City Council meetings often.

Pledge of Allegiance

Roll Call of the Council

Approval of Minutes

Approval of Minutes of March 19, 2019.

Correspondence

Council Disclosure of Ex Parte Communications

Public Hearing

Consent Items

NOTICE TO THE PUBLIC

*The Consent Calendar adopting the printed Recommended Council Action will be enacted with one vote. **The Mayor will first ask the Council members if any Council member wishes to remove any item from the Consent Calendar for discussion and consideration.** The matters removed from the Consent Calendar will be considered individually at the end of this Agenda under "Items Removed from the Consent Calendar." (See Section 12.) The entire Consent Calendar, with the exception of items removed to be discussed under "Items Removed from the Consent Calendar," is then voted upon by roll call under one motion.*

Claims for the month of March 2019.

3. Clerk/Treasurer Financial Statements for the month of February 2019.
4. Approval of Payroll Register for PPE 3/24/2019 totaling \$_____.
5. Receiving the Committee/Board Minutes into the Record.

Ceremonial Calendar

Reports of Boards and Commissions

Audience Participation (Three-Minute Limit)

Citizens may address the Council regarding any item of City business that is not on tonight's agenda. Comments regarding tonight's agenda items will be accepted under Scheduled Matters. The duration for an individual speaking under Audience Participation is limited to three minutes. While all comments are welcome, the Council will not take action on any item not on the agenda.

Scheduled Matters

6. Laurel Police Department: Ryan Sedgwick
 - o Swearing-in Ceremony
7. Resolution - A Resolution Of The City Council Authorizing The Mayor To Sign A Contract With The Billings Family YMCA For The Operation And Management Of The City Of Laurel Municipal Pool.
8. Resolution No. R19-07: A Resolution Of The City Council Authorizing The Developer Of Iron Horse Station Subdivision To Install A Stormwater Pond Within Dedicated Parkland Within The Subdivision Pursuant To LMC 16.40.040.
9. Resolution No. R18-84: A Resolution Of The City Council Granting Permission For A Property Owner to Utilized Decorative Gravel And Rock Along A Portion Of The Boulevard Adjacent To The Owner's Property Located In The City Of Laurel.
10. Resolution - A Resolution Of The City Council Authorizing The Property Owner At 519 5th Avenue To Utilize The Boulevard Adjacent To The Property For Storage Of Materials Until The Weather Allows The Owner's Project To Proceed.

Items Removed From the Consent Agenda

Community Announcements (One-Minute Limit)

This portion of the meeting is to provide an opportunity for citizens to address the Council regarding community announcements. The duration for an individual speaking under Community Announcements is limited to one minute. While all comments are welcome, the Council will not take action on any item not on the agenda.

Council Discussion

Council members may give the City Council a brief report regarding committees or groups in which they are involved.

Mayor Updates

Unscheduled Matters

Adjournment

The City makes reasonable accommodations for any known disability that may interfere with a person's ability to participate in this meeting. Persons needing accommodation must notify the City Clerk's Office to make needed arrangements. To make your request known, please call 406-628-7431, Ext. 2, or write to City Clerk, PO Box 10, Laurel, MT 59044, or present your request at City Hall, 115 West First Street, Laurel, Montana.

DATES TO REMEMBER