

REGULAR COUNCIL MEETING

September 25, 2012
7:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, September 25, 2012, in the City Hall Conference Room at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor C. A. Grenz called the meeting to order. Council members present were Dwayne Andrews, Roxanna Brush, John Hollowell, Jerry Partridge, John Uden, Bill Melnik and Sue Galbraith. Councilperson Mark Ahner was excused.

Also present were City Attorney Jerry Huss, Police Chief Doug Colombik, Fire Chief Dale Berg, Legal Assistant Erica Griffith, City Planner Dianna Broadie, Grant Administrator Dawn Colton, Human Resource/Payroll Officer Billie Burkhalter, Floodplain Administrator Sam Malenovsky and Council Recorder City Clerk Becky Stanton. Public Utilities Director Al Kelm arrived later in the meeting.

PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

Regular Council Minutes – 9/11/2012

** *Councilperson Galbraith moved to approve the minutes of the Regular Council Meeting of September 11, 2012, seconded by Councilperson Brush. The motion then passed unanimously, 7-0.*

Human Resources Committee Meeting – 9/7/12

The **Human Resources Committee** met Friday, September 7, 2012, at 12:00 p.m. in the Conference Room at City Hall. Chairperson John Uden called the meeting to order. Committee members present were Dwayne Andrews, Bill Melnik and John Hollowell.

Also present were Councilperson Sue Galbraith, City Clerk Becky Stanton, Human Resource/Payroll Officer Billie Burkhalter, Auto Cad Technician/Flood Plain Administrator/Asst. to Public Works & Public Utilities Administrator Samantha Malenovsky, Police Chief Doug Colombik, Grant Administrator Dawn Colton and Recorder Connie Watts.

Roll Call

Noted above

Review Compensation for City Clerk, HR/Payroll Officer, Grant Administrator and Floodplain Administrator/AutoCAD Tech/Asst to Public Works & Public Utilities Administrator

Chairman Uden asked City Clerk Stanton, HR/Payroll Officer Burkhalter, Grant Administrator Colton and ACT/FPA/APW&PUA Malenovsky to address the Committee with their concerns.

City Clerk Stanton mentioned the Wage Analysis Study in which, she felt, some positions were not properly addressed. HR/Payroll Officer Burkhalter sent a letter to Chief Colombik, who was representing the non-organized employees. Chief Colombik then sent a letter to Chairperson Uden, who forwarded a copy to the Mayor. An email was then sent to the Mayor requesting him to address those issues, which has not, as yet, been done. After the budget became final, it became apparent that the Mayor was not going to address the issues, so the grievances were then filed.

HR/Payroll Officer Burkhalter explained that one of the issues to be addressed is that Dawn Colton's position and Sam Malenovsky's position are not reflected in the survey passed by the Council. Her position, HR/Payroll Officer, is not reflected in the survey either, other than in the Miles City column. The City Clerk's position had many cities and towns missing from the study and so it is not an accurate representation in comparison to other surveyed positions. Ms. Burkhalter identified numerous other errors in the study:

1. When averaging the wages, Miles City wages were included and they should not have been.
2. The City of Whitefish was thrown out of some, but not all, position averages because the person doing the study felt those wages were too high.
3. A "clerk and recorder" (a county position) was used in the City Clerk's averages – the City Clerk is not a Clerk and Recorder.

She felt the person who did the original survey should be required to correct the errors. Job descriptions should be compared, not simply plugging in wages for job titles.

HR/Payroll Officer Burkhalter stated that what they are requesting is for the Human Resources Committee to follow the recommendations of the non-organized representative, Chief Colombik, implement the wages set forth in his letter, and be recognized in the Study.

Police Chief Colombik prefaced his comments by noting that he was chosen to represent the non-organized employees, but is an employee of the City, works with City employees and is, therefore, not an independent representative. He noted that this Committee will have to decide whether to accept his figures or have somebody completely independent of the City do a follow-up.

The Police, Fire, even the City Shop and Utilities positions were relatively easy, as the titles are fairly consistent throughout various cities. The positions being discussed here, however, vary widely in the duties for those titled positions. The person at MSU doing the survey sent out a form to the cities and many of the cities did not respond.

HR/Payroll Officer Burkhalter stated the individual at MSU indicated to her that a more in-depth study could have been done if there had been more money allocated for it. She also said that the group is basically asking for the 2% raise that is built into the study - these positions are currently frozen for six years.

Chairperson Uden stressed that this meeting has nothing to do with the grievances recently filed by Stanton, Burkhalter, Colton and Malenovsky. He did say that, in his opinion, if they were successful in the grievance, any pay raise could be effective as of July 1, 2012.

Committee Member Andrews thanked Chief Colombik for all his work on this wage project. He questioned why the 2% increase, which he understands to be a cost of living increase, is not implemented for all employees. He assumed it was because no one would get an increase, even a cost of living increase, until he or she would reach the average over the six year period.

He also says he trusts the conclusions of the Police Chief. He would prefer not to have to do the Study again, but if the majority of the Committee felt it was necessary, because of the *appearance* of impropriety, he would vote for that. He has looked at the Study, and feels that: 1. these positions were not analyzed correctly, 2. the study was somewhat flawed because of that and 3. it is our obligation to treat people fairly, and he does not believe these four individuals have been treated fairly because there were problems with the survey.

He feels the Committee needs to go along with Chief Colombik's recommendations or make a decision to have an outside person look at it.

Chairperson Uden asked if these four individuals have all turned in job descriptions.

City Clerk Stanton replied she was asked to complete an in-depth questionnaire for her department, which was also sent by the Mayor to other cities. The questionnaire included the positions of HR/Payroll, Ambulance/AP, City Clerk and Deputy City Clerk positions. She turned that in to the Mayor, along with job descriptions and payroll spreadsheets. No other departments were asked to provide this information with regard to determination of wages, and the mayor had not sent questionnaires to other cities regarding other departments.

Administrator Colton noted that the majority of cities do not have a Grant Administrator at all, so there was nothing with which to compare her position. City Clerk Stanton had called all nine cities requesting information on the Grant Writing and

Flood Plain Administrator positions. None of the cities had anything corresponding to either the Grant Administrator or Flood Plain Administrator positions. That work was all contracted out. Administrator Colton also noted that her position was not addressed in Chief Colombik's letter of recommendation to the Mayor.

HR/Payroll Officer Burkhalter explained the procedure for a grievance. Mayor Grenz has 15 days from the filing of the grievance to respond. Then if the grievant disagrees with the Mayor's response, the grievant can request the grievance to proceed to the third step, which is requesting the Human Resources Committee to review the grievance. The Human Resource Committee, after a meeting is held, has 20 days to render its decision.

** *Chairperson Uden moved to recommend to the Council that the information relevant to pay and benefits for these four positions be sent to Larry R. Martin and also to the Montana State University wage study group, along with the information on the job descriptions, for further review and recommendations. The motion was seconded by Committee Member Andrews and, on roll call vote, passed unanimously, 4-0.*

Request of Citizens

None

Adjournment

** *Committee Member Melnik moved to adjourn the meeting. The motion was seconded by Committee Member Hollowell and passed. The meeting was adjourned at 12:55 p.m.*

** *Councilperson Melnik moved to approve the minutes of the Human Resources Committee Meeting of September 7, 2012, seconded by Councilperson Uden. The motion then passed unanimously, 7-0.*

Public Safety Committee Meeting – 9/12/12

The **Public Safety Committee** met Wednesday, September 12, 2012, at 12:00 pm in the City Hall Conference Room. Present were Committee Chairperson John Uden and Committee Members Sue Galbraith, Duane Andrews and Mark Ahner. Also present were Mayor C.A. Grenz, Miles City Police Chief Doug Colombik, Police Captain Mark Reddick, Custer County Sheriff Tony Harbaugh, Undersheriff Pat Roos and Committee Recorder Connie Watts.

MEETING WITH CHIEF OF POLICE AND CUSTER COUNTY SHERIFF PER CRIMINAL INVESTIGATIONS, DETENTION OF OFFENDERS AND TRANSPORT OF OFFENDERS

Chairperson Uden began the discussion by referencing the ACLU's threat to sue the County because of its recent findings that the County jail is no longer suitable for housing offenders. Even though it is a county jail, it also serves the City of Miles City. The purpose of this meeting is to see if there is any way the City and County could work together to solve the problem of transporting prisoners.

The Sheriff has come up with a plan for transporting and will also transport City prisoners, when necessary, but will need some help from the City in doing so. Chief Colombik said he has no officers that he could use to transport prisoners, as he is currently short four: two who are deployed and two who will shortly be gone to the academy. However, the City could possibly help with costs.

Sheriff Harbaugh then thanked the Committee for inviting them. He felt it was a big step forward to be able to sit down and share concerns. The County has been given a deadline of October 1st to shut down the facility. There is a tentative plan with another county to rent a pod of 8 beds at a cost of \$50.00 per day, \$60 per day if more than 8 beds are required. The agreement just needs to be signed by the Commissioners of both counties.

He has proposed keeping the lower portion of the jail facility, which is about 40 years old, as a 72-hour holding facility. This would give people time to make bail, come before a judge, etc., before having to be transported. If there are three scheduled trips a week – Monday, Wednesday and Friday, this should be enough to handle the necessary transports on a normal basis.

This plan, he stressed, is simply an interim solution, as a new facility will have to be built. He had been approached in January and asked to attend a meeting of the Economic Development Commission, and expressed his concern about the condition of the jail facility. Throughout the spring and early summer he continued to attend their

meetings, and they actually prioritized this issue on their agenda. Last week the grants were signed for the Coal Board and the Eastern Montana Economic Development grant to put together a needs assessment and preliminary plan for a new facility.

The Sheriff's biggest need right now is a reliable vehicle to use for transport. He feels about \$15,000 would be needed to purchase a good, used vehicle for this purpose. After discussion, the Committee members felt the City would be agreeable to purchasing a vehicle. Sheriff Harbaugh and Chief Colombik will work together on this purchase.

** *Committee Member Andrews moved to recommend authorizing the Police Chief to work with the Sheriff on locating a vehicle suitable for transport and authorizing the expenditure of up to \$15,000. The motion was seconded by Committee Member Galbraith and, on roll call vote, passed unanimously, 4-0.*

Adjournment

** *Having no more business to come before the Committee, Committee Member Ahner moved to adjourn, seconded by Committee Member Galbraith and passed unanimously. The meeting was adjourned at 1:00 p.m.*

** *Councilperson Uden moved to approve the minutes of the Public Safety Committee Meeting of September 12, 2012, seconded by Councilperson Galbraith. The motion then passed unanimously, 7-0.*

Finance Committee Meeting – 9/19/2012

The **Finance Committee** met September 19, 2012, at 12:00 p.m. in the City Hall Council Chambers. Present were Chairperson Mark Ahner and Committee Members Bill Melnik and Roxanna Brush. Committee Member Jerry Partridge was excused. Also present were Council Member John Uden, Councilperson Dwayne Andrews, Mayor Chris Grenz, Public Utilities Director Al Kelm, Fire Chief Dale Berg, and Recorder City Clerk Becky Stanton. Also present was Shop Mechanic Foreman Scott Ask

Request to adjust Ambulance bill:

Chairperson Ahner requested that anyone that is not an integral part of the ambulance bill to please leave due to privacy issues. Public Utilities Director Kelm and Shop Mechanic Foreman Ask left the room. Chairperson Ahner stated that when the patient was discussed, it would be Patient Number 2731. Patient Number 2731 has submitted a letter requesting a reduction on her ambulance bill and the circumstances surrounding the request and the incident requiring an ambulance. Insurance has paid on the bill leaving a remaining balance. The ambulance department is always willing to take payments of almost any amount and the Finance Committee has never written off or reduced an ambulance bill.

* * *Committee Member Brush moved to have the Ambulance Billing Clerk work with Patient Number 2731 to find an acceptable payment amount so the individual can pay on the bill. The motion was seconded by Committee Member Melnik, and the motion carried unanimously, 3-0.*

Review of Levee Repair Bid by Jarrett Construction.

Chairperson Ahner explained that the bid of \$44,646 was in everyone's packet. Director Kelm stated that the money to pay for this project was from FEMA.

* * *Committee Member Melnik moved to recommend to the Council to approve the Levee Repair Bid. The motion was seconded by Committee Member Brush, and the motion carried unanimously, 3-0.*

Review of Resolution No. 3547 – Budget Amendment for Library for FY 2012-2013.

Chairperson Ahner explained that the Humanities Grant was received by the Library in FY 2011-2012. The Library had not used all the money in that year and needed a budget amendment to appropriate the money in the current Fiscal Year. The amount of the amendment is \$2,374.01 split amongst various expenditures accounts.

* * *Chairperson Brush moved to recommend to the Council to approve the Resolution. The motion was seconded by Committee Member Melnik and the motion carried unanimously, 3-0.*

Review of Change Orders 5 and 6 for CMG Construction for 20" Waterline Relocation

Chairperson Ahner explained that Change Order 5 had already been approved by Resolution 3489 dated May 8, 2012. Director Kelm said that the Change Order 6 in the packet is the wrong one. It is the one from Ahanu and not from CMG. The City has not received the Change Order 6 from CMG yet. Director Kelm asked that this item be pulled from the agenda. Chairperson Ahner agreed, pulled the item from the agenda and will refer it to another meeting.

Request to Purchase Hoist for the City Shop

Director Kelm explained that the current hoist is 25 years old. The new hoist is budgeted for in the Capital Improvements Fund for the Shop. The cost of the new hoist will be \$5,599. It is a 14,000 pound hoist, which is heavier and longer than the old hoist. It will accommodate more of the City's vehicles. This bid also includes 2 rotary 7,000 pound capacity rolling jacks for 4 post hoist at \$2,299 each. Shop Foreman Ask explained the necessity of the rolling jacks. The City Shop will be able to service more City vehicles with the purchase of the new hoist and jacks. The old hoist will be moved to the Parks Department Shop to be used for the mowers and lighter equipment

* * Chairperson Melnik moved to recommend to the Council to approve the purchase of a hoist and rolling jacks from Miles City Motor Supply for a total price of \$10,197. The motion was seconded by Committee Member Brush and the motion carried unanimously, 3-0.

Request of Citizens

-None

There being no further business, the meeting was adjourned at 12:20 p.m.

** Councilperson Melnik moved to approve the minutes of the Finance Committee Meeting of September 19, 2012, seconded by Councilperson Brush. The motion then passed unanimously, 7-0.

SCHEDULE MEETINGS

Human Resource Meeting: Thursday, October 25, at 6:00p.m. and Friday, October 26, at 6:00p.m.

Planning Meeting: Wednesday, September 26, at 6:00p.m.

Flood Control Meeting: Thursday, September 27, at 6:00p.m

REQUEST OF CITIZENS & PUBLIC COMMENT

Blondie Kaminsky, 800 Silversage, said that she has had sand and gravel in her water line. She has unplugged her filters on her washing machine and faucets every two days.

PROCLAMATIONS

-None

STAFF REPORTS

DAWN COLTON, Grant Administrator – Update on Riverside

Restroom Project: Administrator Colton explained the bids would be opened at this meeting.

AL KELM, Public Utilities Director

Update on Fire Door – Director Kelm was absent, so Mayor Grenz explained that Director Kelm is working with Jerry Smith on the fire door for upstairs.

He is getting bids on fire alarms and smoke detectors for City Hall.

Strevell Street Project – Director Kelm was absent, so nothing was reported.

CITY COUNCIL COMMENTS

Councilperson Andrews – After the last Finance Meeting, the auditors reviewed their audit of the City with the Council members and Mayor Grenz. He would like to thank Human Resource/Payroll Officer Billie Burkhalter and City Clerk Becky Stanton for the good job they did. The auditor made it perfectly clear that they had done an excellent job and he thought it was important to recognize that.

Councilperson Uden – He has received several calls about the corner curbs on the north side of town that have been unfinished for a long time. He is concerned that they may not be completed before winter.

Councilperson Hollowell – He stated that a contractor has been hired to complete them and they should be finished before winter.

MAYOR COMMENTS

-None

APPOINTMENTS

-None

PUBLIC HEARINGS

Intent to Decrease for Two Years, Then Incrementally Increase for 13 Years, Monthly Minimum Water Rates and Monthly Overage Water Rates

Mayor Grenz then called for comments from proponents three times, and there were none. Then he asked for comments from opponents.

Mervin Meidinger, 1210 N. Prairie, said his math did not match the Mayor's math. The citizens end up with a 26% increase in water rates. He does not think that it is right.

Mayor Grenz said that his thinking is to lower the rates two years and then raise the rates over several years in smaller increments. This is easier than having large increases of 40%, 60% or 70% as was done in the past.

Scott Elder, 9 Goddess Drive, said that it does not make sense to him to lower the rates for two years and then increase them for 13 years. He asked why not just increase the rate 1% per year and get the same effect. He feels that it gives the public the perception that the City is hiding something.

Merlie Hill, 1202 Garland, said her water bill last month was \$167 and at the end of the 13 years, she will be paying \$137 in addition to the \$167.

Hearing no more comments, the hearing was closed.

Intent to Annex Certain Contiguous Government Lands to the City of Miles City, Montana to Wit: That Portion of the Right of Way of Montana State Highway 59 South Commencing at the Intersection of Such Highway with the Southerly City Limit Line of the City of Miles City On Highway 59 South, Thence Southerly, the Full Width of Such Right of Way, to that Point at which the Southerly Boundary Line of Tract 1 of Certificate of Survey 49207 in Section 2, Township 7 North, Range 47 East, Custer County, Montana (Commonly known as the

Super 8 Motel property) Intersects the Easterly Boundary of Such Right of Way

City Planner Broadie explained that this land will make a contiguous boundary with the Super 8 property (which is being annexed voluntarily) when annexed into the City.

Mayor Grenz then called for comments from proponents three times, then opponents three times and, hearing none, the hearing was closed.

Resolution No. 3547: A Resolution Pursuant to §7-6-4006 of the Montana Code Annotated, Authorizing Amendment of Final Budget for FY 2012-2013 to Appropriate Unappropriated Revenues to Library Grant Fund No. 2880 for Grant Expenditures

Mayor Grenz then called for comments from proponents three times, then opponents three times and, hearing none, the hearing was closed.

OLD BUSINESS

Resolution No. 3547: A Resolution Pursuant to §7-6-4006 of the Montana Code Annotated, authorizing Amendment of final budget for FY 2012-2013 to Appropriate Unappropriated revenues to Library Grant Fund No. 2880 for Grant Expenditures

** *Councilperson Brush moved to approve the Resolution, read by title only, seconded by Councilperson Galbraith. On roll call vote, the motion passed unanimously, 7-0.*

RESOLUTION NO. 3549: A Resolution, Pursuant To Title 7, Chapter 2, Part 44 MCA, Annexing certain Contiguous Government Lands To The City Of Miles City, Montana, That Portion Of The Right Of Way Of Montana State Highway 59 South Commencing At The Intersection Of Such Highway With The Southerly City Limit Line Of The City Of Miles City On Highway 59 South, Thence Southerly, The Full Width Of Such Right Of Way, To That Point At Which The Southerly Boundary Line Of Tract 1 Of Certificate Of Survey 49207 In Section 2, Township 7 North, Range 47 East, Custer County, Montana (Commonly Known As The Super 8 Motel Property) Intersects The Easterly Boundary Of Such Right Of Way

** *Councilperson Uden moved to approve the Resolution, read by title only, seconded by Councilperson Hollowell. On roll call vote, the motion passed unanimously, 7-0.*

BID OPENING

Riverside Park Restroom Project – There were two bids received for this project. The first bid opened was from Jackson Contractor Group for \$394,066.80 with a 10% bid bond. The second bid opened was from Magic Construction for \$472,353.00 with a 10% bid bond.

** *Councilperson Uden moved to refer the above bid to the Finance Committee, seconded by Councilperson Brush, and the motion passed unanimously, 7-0.*

BID AWARDS

Levee Repair – Jarrett Construction Public Utilities Director Kelm stated that it came from the Finance Committee with a recommendation to award the bid to Jarrett Construction. The bid was for the levee repair west of the Tongue River and Yellowstone River confluence. Jarrett Construction bid \$44,640 with a bid bond of 10%. There were no other bids.

** *Councilperson Galbraith moved to accept the above bid, seconded by Councilperson Hollowell. On roll call vote, the motion passed unanimously, 7-0.*

NEW BUSINESS

RESOLUTION NO. 3550: A Resolution Establishing Wages and Salaries for City Employees for Fiscal Year 2012-2013

** *Councilperson Brush moved to approve the Resolution, read by title only. Then, after discussion about which Committee it had been through, Councilperson Brush withdrew her motion.*

** *Councilperson Andrews moved to send the Resolution, read by title only, to the Finance Committee, seconded by Councilperson Melnik. On roll call vote, the motion passed unanimously, 6-1, with Councilperson Partridge voting nay.*

RESOLUTION NO. 3553: A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2012-2013 To Appropriate Unappropriated Cash Balances From The Capital Improvement Fund No. 4000 For The Purchase Of A Prisoner Transport Van

** *Councilperson Uden moved to send the Resolution, read by title only, to the Finance Committee, seconded by Councilperson Andrews. On roll call vote, the motion passed unanimously, 5-2, with Councilpersons Partridge and Hollowell voting nay.*

RESOLUTION NO. 3554: A Resolution Authorizing an Amendment to the Construction Agreement with Dick Anderson Construction, Inc., A Montana Corporation, for Construction of the Schedule I Wastewater Improvements (Haynes Avenue Lift Station)

Director Kelm asked if the Council would suspend the rules to send this Resolution to the Finance Committee. He asked if the Council would vote on this Resolution tonight so the contractor can get started on this project right away.

** *Councilperson Brush moved to suspend the rules for the above Resolution, seconded by Councilperson Partridge.*

Councilperson Hollowell said he really does not like to approve change orders before the work has begun. It is like changing your bid after seeing everyone else's bid. After visiting with Director Kelm, who said it saves the City money by having them start right away and preventing them from going into the winter season, he said he will vote for the Resolution.

Councilperson Uden said that Director Kelm explained that \$75,000 is added to the cost. According to Director Kelm, the money is in the budget for this cost, and is available in the Sewer Reserves.

Councilperson Galbraith pointed out that even with the \$75,000 added to the bid; it is still below the next highest bid.

On roll call vote, the above motion passed unanimously, 7-0.

** *Councilperson Hollowell moved to approve the Resolution, read by title only, seconded by Councilperson Uden. On roll call vote, the motion passed unanimously, 7-0.*

Consideration of Waiver of Site Plan Fee for Grutkowski Animal Rescue Shelter at 818 N. Lake

Diane Grutkowski, 818 N Lake, asked that the Council waive the \$110 Site Plan Fee. Normally a Site Plan Fee involves more work than was done at her home. It usually deals with construction and there was not any construction done for this item. City Planner Broadie just took some pictures. The money could be put towards items that could benefit the shelter.

Councilperson Uden is concerned about setting precedence for future shelters by waiving the fees for her.

City Planner said that most site plans require dealing with setbacks, fire codes and planning, so more work is usually required for them.

** *Councilperson Brush moved to move this item to the Finance Committee to possibly determine a reduced rate for the site plan review, seconded by Councilperson Melnik.*

Councilperson Partridge said he would vote no on this item because more time is wasted sending business to the Finance Committee. Councilperson Hollowell said he would vote no for the same reason. He also said that the fee should be lowered but not waived because City personnel have spent time processing the site plan review.

** *The motion was withdrawn by Councilperson Brush.*

** *Councilperson Partridge moved to approve waiver of the site plan review, seconded by Councilperson Hollowell.*

Councilperson Galbraith said when the Ordinance was passed; the fee was part of the Ordinance. The City personnel are utilized, so there is expense involved with the process.

After discussion and on roll call vote, the above motion passed, 5-2, with Councilpersons Galbraith and Andrews voting nay.

Consider Granting Permission to use “Old Cross County” Dike Route: Mike Ryan, Custer County District High School Activities Director

** *Councilperson Hollowell moved to approve the Resolution, read by title only, seconded by Councilperson Galbraith.*

Councilperson Uden stated he was concerned about liability insurance. City Attorney Huss said the City could request a certificate of insurance from the High School and the City could also request an indemnity agreement from the High School.

** *Councilperson Uden moved to amend the original motion to require that the Custer County District High School provide a certificate of insurance and an indemnity agreement, seconded by Councilperson Partridge. On roll call vote, the motion passed unanimously, 7-0.*

** *On roll call vote, the original motion passed unanimously, 7-0.*

Consider a Counter-proposal for BNSF depot lease

Connie Muggli of the Custer County Historical Society explained that Bryant Martin of the Lucas Law Firm has drafted a counter-proposal to Burlington Northern Santa Fe (BNSF) for a ground lease under the depot building. City Attorney Huss has reviewed it and made changes to it to protect the City. The Society is requesting permission to move forward in lease negotiations with this draft counter-proposal.

City Attorney Huss explained that the attorneys worked to develop a Commercial lease to present to BNSF. City Attorney Huss has structured the lease in such a way as to enable the City to assign the lease immediately.

Ms. Muggli stated that the Custer County Historical Society is in a position to accept the donation of the building from the City and accept the assignment of the lease and pay for the first year lease expense.

** *Councilperson Brush moved to grant permission to move forward with lease negotiations in good faith, along with City Attorney Huss' supervision, by approving the counter-proposal for the BNSF depot lease. The motion was seconded by Councilperson Partridge. After discussion, and on roll call vote, the motion passed unanimously, 7-0.*

Appointment of Janette Jones as Special Counsel to the Human Resources Committee

** *Councilperson Uden moved to approve the appointment of Janette Jones as Special Counsel to the Human Resources Committee, seconded by Councilperson Melnik.*

Councilperson Andrews asked why the City was hiring her and Mayor Grenz explained that she would be a Hearing Officer during the hearings for the grievances to help the City run the meeting.

Councilperson Partridge asked if she represented the City. Mayor Grenz stated that she would be a neutral judge and would advise the City on proper procedure. City Attorney Huss explained that she will give advice to the Committee.

Human Resource/Payroll Officer Burkhalter started to speak and Mayor Grenz asked her for her address, which she gave. She asked for clarification that Attorney Jones is not representing the City or the grievants but that she would be advising the Human Resource Committee. City Attorney Huss stated that Ms. Jones would be advising the Committee on procedure only and not on the merit. Once the merit is decided, she would probably write their decision for them. She asked who would be present at the hearings. Would it be

Attorney Jones, the Committee, the grievant and, if they choose, their attorney? City Attorney Huss said the City's Labor Attorney would be there also to represent the City.

Councilperson Hollowell believes this is overkill. All the grievants requested was for the positions to be researched. Councilperson Andrews agreed. Mayor Grenz stated they were following the procedure. The grievants have moved this to Step III. Councilperson Partridge asked if Step III required the City to have attorneys present. City Attorney Huss stated no and said Step III does not even require the Committee, and that the Chairperson of the Human Resource Committee can make the determination. He can ask for additional information or he can request that there is a hearing. It is City Attorney Huss' understanding that Committee Chairperson Uden has requested that there be a hearing so that the entire Committee is involved.

City Clerk Stanton started to speak and Mayor Grenz asked for her address, which she gave. Then she stated to Mayor Grenz that he had not asked City employees Kelm, Colton or Broadie their addresses. She then asked if the City had ever had representation present on a non-union grievance. City Attorney said yes with Fire Chief Christopherson. She said she was rather surprised that there is a process for non-union individuals to file a grievance. She followed that process to have her position reviewed and now she has to hire an attorney. City Attorney Huss said she did not have to hire an attorney but his advice to her was to have representation. She said she would probably have one hired but she is alarmed and surprised about the process.

Human Resource/Payroll Officer Burkhalter asked for clarification if Fire Chief Christopherson's situation dealt with a grievance on wages? City Attorney Huss said no. She stated that the grievants have to hire an attorney for a study that everyone else in the City was represented in. City Attorney said that the City has a position and the grievants have an opposite position and the City's grievance policy allows for this process.

Human Resource Committee Chairman Uden's decision to have a non-interested person to sit as a hearing judge was to protect everyone involved. Councilperson Partridge said the Hearing Judge is interested because she is being paid by the City. He said he would vote to allow Attorney Jones to represent the City and he hoped the grievants hire an attorney because, if they don't, it is not going to work out well for them.

Councilperson Andrews will not be in town during the scheduled Human Resources Committee meetings. Rescheduling them was discussed but not decided upon.

*** On roll call vote, the motion passed unanimously, 6-1, with Councilperson Hollowell voting nay.*

City Attorney Huss suggested mediation with a neutral party to try to arrive at a resolution. Mediation is not binding. Councilperson Partridge thought it was an excellent idea and the City should move away from the knives and guns. Mayor Grenz said it was not our move to move away. It is the grievants' move to move away. Councilperson Partridge said he was agreeing with the City's lawyer to move away from this.

*** Councilperson Brush moved to adjourn the meeting, seconded by Councilperson Partridge. After discussion, Councilperson Brush withdrew her motion.*

Wages & Adjustments regarding four non-union grievances

** *Councilperson Uden moved to withdraw this matter until the City settles the grievances, seconded by Councilperson Hollowell. After discussion, and on roll call vote, the motion passed unanimously, 7-0.*

ADJOURNMENT

** *Councilperson Brush moved to adjourn the meeting, seconded by Councilperson Andrews and passed unanimously, 7-0. The meeting was adjourned at 8:35 p.m.*

C.A. GRENZ, Mayor

Becky Stanton, City Clerk