

**CALL TO ORDER**

The Regular Council meeting was held Tuesday, June 12, 2012, in the City Council Chambers at City Hall. Mayor Chris Grenz called the meeting to order. Council members present were Dwayne Andrews, Roxanna Brush, Mark Ahner, Jerry Partridge, John Uden, Bill Melnik and Sue Galbraith. Council member John Hollowell was excused. Also present were Fire Chief Dale Berg, City Attorney Jerry Huss, City Planner Dianna Broadie, Public Utilities Director Al Kelm, Police Chief Doug Colombik, Building Inspector Dennis Hirsch and Recorder City Clerk Becky Stanton.

**PLEDGE OF ALLEGIANCE**

Mayor Grenz led the Council in the Pledge of Allegiance.

**APPROVAL OF COUNCIL & COMMITTEE MINUTES**

**Regular Council Minutes – 6/12/12**

- \*\* *Councilperson Galbraith moved to approve the Regular Council Meeting Minutes of June 12, 2012, seconded by Councilperson Brush.*
- \*\* *Councilperson Ahner moved to amend the Regular Council Meeting Minutes of June 12, 2012, for two corrections, seconded by Councilperson Brush. The motion passed unanimously, 7-0.*
- \*\* *The original motion passed unanimously, 7-0.*

**Finance Committee – 6/20/12**

- \*\* *Councilperson Brush moved to approve the Finance Committee Minutes of June 20, 2012, seconded by Councilperson Galbraith.*
- \*\* *Councilperson Ahner moved to amend the Finance Committee Meeting Minutes of June 12, 2012, for one correction, seconded by Councilperson Melnik. The motion passed unanimously, 7-0.*
- \*\* *The original motion passed unanimously, 7-0.*

**Public Safety Committee – 6/21/12**

- \*\* *Councilperson Galbraith moved to approve the Public Safety Committee Minutes of June 21, 2012, seconded by Councilperson Melnik.*
- \*\* *Councilperson Ahner moved to amend the Public Safety Committee Meeting Minutes of June 21, 2012, for one correction, seconded by Councilperson Uden. The motion passed unanimously, 7-0.*
- \*\* *The original motion passed unanimously, 7-0.*

**SCHEDULE MEETINGS**

Planning Board: Wednesday, June 27, 2012, at 6:00 p.m.

## **REQUEST OF CITIZENS & PUBLIC COMMENT**

Deb Shaw, Valley Drive, representing Miles City Youth Baseball Association is trying to find their signed lease. They have provided the proof of insurance. The Mayor stated there was a conflict with the term of the lease which ends in August and the request of use was through the third Sunday in September. Ms. Shaw stated they were fine with the use being through August. City Planner Broadie will take care of this matter.

Elizabeth Nieffer, 16 N Prairie Avenue, was inquiring about her lease and was told it was on the agenda this evening.

## **STAFF REPORTS**

-None

## **CITY COUNCIL COMMENTS**

**Councilperson Galbraith** thanked Council member Hollowell for letting his old house be used for fire practice.

**Councilperson Uden** asked for an update on the Riverside restrooms project. Director Kelm explained the City had received a report back from Dowl HKM, it has been reviewed and will be sent to CTEP for their approval. Once approved, it will go to bid.

**Councilperson Ahner** commended the Walleyes Unlimited for the Kids Day at Spotted Eagle and thanked all those that contributed to that effort. It was a great family day with kids learning about fishing. The City staff had done a lot of work preparing the park for the event. He also had a question about the demolition of the Riverside Park Water Tank. Director Kelm explained there is legislation that requires at least one member of each craft to be a Montana resident. The company scheduled to perform this task is from out of state so they are trying to get a waiver from the state in order to use their four employees who are experienced doing this type of work.

**Councilperson Brush** asked permission to be out of town for 10 days.

*\*\* Councilperson Ahner moved to approve Councilperson Brush's absence, seconded by Councilperson Uden. The motion passed, 6-0, with Councilperson Brush abstaining.*

## **MAYOR COMMENTS**

**Urban Preservation project** - The City has qualified for it. Director Kelm and Scott Gray prepared the paperwork. The City will receive \$300,000 in 2014 and \$150,000 each year after that.

The **Rocks program** would like to have free swimming for the children in their program. The Mayor would like to have free swimming for all children. Director Kelm spoke with ROCKS Director Joyce Vera. She said the children would swim for one or two hours once or twice a week. The Mayor asked the paper to run an article to ask businesses to donate to this cause.

MDOT will have staff in Miles City to talk about a Transportation Plan on July 19<sup>th</sup>. No time has been set yet.

## **PUBLIC HEARINGS**

**ORDINANCE NO. 1242:** An Ordinance Revising Section 18-28 Of The Code Of Ordinances Of The City Of Miles City Regarding The Compensation Of Members Of The Miles City Police Commission; And Providing An Effective Date Thereof

*Mayor Grenz called for proponents and then opponents three times. Hearing none, the public hearing closed.*

**RESOLUTION NO. 3498:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2011-2012 To Appropriate Unanticipated Revenues To Building Inspector Fund No. 2394 For Contracted Professional Services

*Mayor Grenz called for proponents and then opponents three times. Hearing none, the public hearing closed.*

**RESOLUTION NO. 3499:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2011-2012 To Appropriate Unanticipated Revenues To Airport Fund 5610 For Fuel Supplies

*Mayor Grenz called for proponents and then opponents three times. Hearing none, the public hearing closed.*

**RESOLUTION NO. 3500:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2011-2012 To Appropriate Unanticipated Revenues To Lighting District No. 165 Fund 2400 For Electrical Utilities

*Mayor Grenz called for proponents and then opponents three times. Hearing none, the public hearing closed.*

**RESOLUTION NO. 3501:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2011-2012 To Appropriate Unanticipated Revenues To Library Grant Fund 2880 For Office Supplies And Materials

*Mayor Grenz called for proponents and then opponents three times. Hearing none, the public hearing closed.*

## **OLD BUSINESS**

**ORDINANCE NO. 1242:** An Ordinance Revising Section 18-28 Of The Code Of Ordinances Of The City Of Miles City Regarding The Compensation Of Members Of The Miles City Police Commission; And Providing An Effective Date Thereof

**\*\*** *Councilperson Uden moved to adopt the Ordinance, read by title only, and seconded by Councilperson Galbraith.*

**\*\*** *Councilperson Ahner moved to amend the Ordinance from \$10.00 per day to \$25.00 per month, seconded by Councilperson Uden. The motion passed unanimously, 7-0.*

\*\* *The original motion passed unanimously, 7-0.*

**RESOLUTION NO. 3498:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2011-2012 To Appropriate Unanticipated Revenues To Building Inspector Fund No. 2394 For Contracted Professional Services

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

**RESOLUTION NO. 3499:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2011-2012 To Appropriate Unanticipated Revenues To Airport Fund 5610 For Fuel Supplies

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

**RESOLUTION NO. 3500:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2011-2012 To Appropriate Unanticipated Revenues To Lighting District No. 165 Fund 2400 For Electrical Utilities

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

**RESOLUTION NO. 3501:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2011-2012 To Appropriate Unanticipated Revenues To Library Grant Fund 2880 For Office Supplies And Materials

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

**RESOLUTION NO. 3510:** A Resolution Ratifying The Letter Of Agreement Concerning Wages And Extension Of The Terms Of The Collective Bargaining Agreements Between The City Of Miles City And AFSCME Local No. 283-A, AFSCME Local No.283-B, IAFF Local No. 600, And Non-Organized Staff for FY 2012-2013 through FY 2017-2018

\*\* *Councilperson Uden moved to adopt the Resolution, read by title only, and seconded by Councilperson Melnik.*

Dianna Larson from Local 283-A spoke against this Resolution. Dianna is the Secretary for the Engineering & Operations office. She said there are 32 employees in her union, 11 of the members will not get a raise and most of those are women. She asked if the study had considered employees' years of service and if they were union employees? She said the unions had a day and half to accept this contract or receive nothing at all.

Bruce Larson, 18 S. Strevell, spoke against this Resolution also. He asked what criteria the study was based on and if the figures were based on a base wage or total hourly wage. He asked if years of service were taken into consideration. He stated that there were some inequities in the study.

The Mayor said the study was done on the wages of employees located in towns and cities whose population was 6,000 to 10,000 people. He said the unions all agreed to the contract.

Councilperson Ahner explained that each employee will receive a longevity increase under the terms of each contract. He also explained that each union had a representative on the Wage Analysis Study Committee, the City Council's representative was Councilperson Uden and the study was going on for a year.

**\*\*** *On the Original motion, with a roll call vote, it passed, 6-1, with Councilperson Galbraith voting nay.*

## **BID OPENINGS AND AWARDS**

Bid Award for the Haynes Avenue Lift Station Project and Waste Water Treatment Plant Influent Building. Director Kelm said that Robert Peccia and Associates reviewed all the bids, bonds and the references. Addendum No. 2 required the bidders to have previously performed at least three similar jobs. The Jackson Contractor Group, the low bidder, did not meet this qualification. Robert Peccia and Associates and City Attorney Huss both agree that Jackson Contractor Group do not meet the requirements and have recommended disqualifying them.

The awards are as follows:

Schedule 1- Dick Anderson Construction - \$1,181,000  
Schedule 2 – Williams Brothers Construction - \$1,624,000

**\*\*** *Councilperson Ahner moved the Council award the bid for the Waste Water Treatment Influent Building Schedule 2 in the amount of \$1,624,000 to Williams Brothers Construction and that Schedule 1 for the North Haynes Avenue Lift Station be awarded to Dick Anderson Construction in the amount of \$1,181,000, for a total of \$2,805,000. Further, he will make this recommendation finding that the apparent low bidder, Jackson Contractor Group, is a non-responsive bidder in regards to Addendum No. 2 projects that have been completed but do not meet the specifications of the bid. The motion was seconded by Councilperson Uden. On roll call vote, the motion passed unanimously, 7-0.*

## **NEW BUSINESS**

**RESOLUTION NO. 3503:** A Resolution Designating The City Sanitarian As The Code Enforcement Officer For Purposes Of Chapter 15 Of The Miles City Code, Regarding Nuisances

**\*\*** *Councilperson Brush moved to adopt the Resolution, read by title only, seconded by Councilperson Galbraith. The motion passed unanimously, 7-0.*

**RESOLUTION NO. 3504:** A Resolution Authorizing The City Of Miles City To Enter Into A Contract With Olness & Associates, P.C. For Audit Services For Fiscal Year 2011-2012, Fiscal Year 2012-2013, And Fiscal Year 2013-2014.

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

**RESOLUTION NO. 3505:** A Resolution Authorizing The City Of Miles City To Enter Into An Agreement Extending The Term Of The Contract With Dale Petroff D/B/A "Dale's Cleaning Service" For Janitorial Services For City Hall For A Period Of One Year.

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

**RESOLUTION NO. 3506:** A Resolution Authorizing The Leasing To Todd Neiffer And Elizabeth Neiffer Of Miles City, Of Lots 6 And 7 Of Tract E Of The Industrial Site Owned By The City Of Miles City, Montana;

\*\* *Councilperson Ahner moved to send the Resolution to the Finance Committee, seconded by Councilperson Galbraith. On roll call vote, motion passed unanimously, 7-0.*

**RESOLUTION NO: 3507:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2011-2012 For State Of Montana Payments On Behalf Of Retirement Accounts And Providing For Hearing Thereon

\*\* *Councilperson Ahner moved to send the above item to the Finance Committee, seconded by Councilperson Uden. On roll call vote, motion passed unanimously, 7-0.*

**RESOLUTION NO. 3508:** A Resolution Authorizing The City Of Miles City To Enter Into An Agreement Extending The Term Of The Contract With Progressive Cleaning Services, Inc. For Janitorial Services For The City Shop For A Period Of One Year.

\*\* *Councilperson Galbraith moved to adopt the Resolution, read by title only, and seconded by Councilperson Uden. Motion passed unanimously, 7-0.*

**RESOLUTION NO. 3509:** A Resolution Authorizing The City Of Miles City To Enter Into An Agreement Extending The Term Of The Contract With Marilyn Forman For Janitorial Services For The City Police Department Building For A Period Of One Year

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

**ORDINANCE NO. 1245:** An Ordinance Amending Ordinance No. 796 To Change The Zoning Of Tract 2A, JE Morrison Tracts, Section 34, T Township 8 North, Range 47 East, Custer County Montana, Located On

The Southwest Corner Of Haynes Avenue And Leighton Boulevard And Bordered On The West By Legion Avenue From Heavy Commercial District To General Commercial District, Providing For A Hearing Thereon, And Providing An Effective Date Thereof

\*\* *Councilperson Uden moved to adopt the Ordinance, read by title only, and seconded by Councilperson Melnik. On roll call vote, motion passed unanimously, 7-0. The Mayor referred this item to the Finance Committee.*

**ORDINANCE NO. 1246:** An Ordinance Amending Ordinance No. 796 To Change The Zoning Of The West 171 Feet Of Lots C, D, And E Of Lothspeich Minor Subdivision In Section 34, Township 8North, Range 47 East, Custer County Montana, And Located Between Haynes Avenue And Miles Community College, South Of Lynam Subdivision And North Of Franks Body Shop, From C Residential District To General Commercial District, Providing For A Hearing Thereon, And Providing An Effective Date Thereof.

\*\* *Councilperson Brush moved to adopt the Ordinance, read by title only, and seconded by Councilperson Melnik. On roll call vote, the motion passed unanimously, 7-0. The Mayor referred this item to the Finance Committee.*

**Loading Zone Sign at the NW Corner of Washington & Eighth St. (Ed Martin)**

\*\* *The Mayor referred this item to the Public Service Committee.*

#### **Discussion of 4<sup>th</sup> of July Fireworks: Insurance**

The Mayor stated the City's insurance carrier, MMIA, would not cover the fireworks being set off by the VFW Club for the Fourth of July Celebration. The VFW Club has provided the City with proof of insurance for that event. The Mayor would like the fireworks banned in the park during the VFW fireworks display. Fire Chief Berg agreed that something needed to be done as it is very dangerous. Custer County has declared a ban on fireworks. Councilperson Brush brought in grass from Bender Field's parking lot and passed it around the room. It was very dry. Councilperson Andrews said the Council should allow fireworks because the vendors have already set up and sold fireworks, the public is not aware there is a ban on fireworks and a ban will be difficult to enforce.

\*\* *Councilperson Andrews moved to continue with what the Council has done in the past. If in the future the City is going to ban fireworks, it needs to notify the public earlier. The motion was seconded by Councilperson Partridge.*

Councilperson Uden stated this process needed to be done by a resolution.

*Councilperson Andrews withdrew his motion.*

\*\* *Councilperson Ahner moved to hold a Special Council Meeting on Monday at noon in the City Hall Conference Room in regards to the time, dates and places for the discharge of fireworks for this coming week and Fourth of July Celebration. The motion was seconded by Councilperson Partridge and the motion carried unanimously, 7-0.*

## **Discussion of Building Inspector Contract**

The Mayor said as part of restructuring personnel, the City is in the process of hiring a new Public Works Director and would consider training an employee to be certified. The Building Inspector's contract expires on June 30, 2012. He also has concerns about paying the Building Inspector to attend Board of Appeals meetings. He feels that is part of being a Building Inspector.

Councilperson Partridge spoke in favor of keeping the current Building Inspector because he felt he is doing a good job.

Councilperson Ahner said he had recommended to the Mayor to put the job up for bid to see if there were other qualified and certified individuals who would be willing to bid the job and do it for less money.

Councilperson Galbraith said that Building Inspector Hirsch is certified in all fifty states and was chosen to represent Montana on the National Building Code meeting. She also noted that when he first started the City was \$60,000 in the hole and currently there is a surplus of \$90,000. She doesn't feel the Council should get rid of someone doing a good job.

Councilperson Brush reminded the Council that he pays his own taxes and other benefits as a contracted employee. These all are expenses that the City does not have to pay. She supports keeping Building Inspector Hirsch.

Councilperson Uden feels the position should go out for bid to give other individuals an opportunity.

Councilperson Brush reminded the Council that the Janitorial contracts were renewed tonight without going out for bid.

The Mayor would like to clean up the language in the contract. He feels it is unclear.

Bruce Larson, 18 S. Strevell, who was the former Public Works Director, told the Council that Building Inspector Hirsch does a good job and that he was asked to attend the Board of Appeals meetings. He also helps with Code Enforcement for free because he is all around the City doing Building Inspections also. He does not feel the City will be able to hire anyone better. The City has more money in the Building Inspector Fund than before, due to this position being a contracted position.

Building Inspector Hirsch said that he was going to ask for a closed meeting but the Council was already discussing it. He feels he is doing a good job. He works with City Attorney Huss on condemning buildings.

Building Inspector Hirsch's lawyer, Pat Bagley, asked the Mayor what language specifically is vague. The Mayor explained it was if the Building Inspector should charge to go to a Board of Appeals meeting. If a citizen requests a building permit and it can't be issued due to a set-back issue, the item would go to the Board of Appeals, which could grant the permission to build. The citizen can go back and buy the building permit. Building Inspector Hirsch is making money from the permit that is issued. Wouldn't that be in the scope of his duties to issue a building permit and go to the Board of Appeals meeting? It is not clear. He would like to get that language cleaned up.

Councilperson Uden suggested that this issue be discussed in a closed meeting, since it deals with personnel issues.

Attorney Pat Bagley wanted it noted that option was not afforded to Mr. Hirsch at the beginning of the discussion, even though he was raising his hand to be heard.

Bruce Larson, 18 S. Strevell, former Public Works Director, explained that the reason Building Inspector Hirsch was asked to attend the Board of Appeals meetings was because of code enforcement, which is a Public Works Director's function. Someone that enforces those codes needs to be in attendance at the Board of Appeals meetings. The past Mayor wanted Building Inspector Hirsch to attend the meetings.

City Attorney Huss asked if Building Inspector Hirsch was requesting the meeting to be closed due to personal privacy issues that overrides the public's right to know. Building Inspector Hirsch stated yes. City Attorney Huss said that Mayor Grenz has to make a determination whether the meeting should be closed because what is being discussed, or proposed to be discussed, would involve an invasion of privacy that exceeds the public's right to know. Attorney Bagley stated that ship has already sailed because an open meeting had already been occurring. What he is really confused about is that the Mayor wants to modify certain provisions of the contract, but Mr. Bagley is hearing from City Council members concern about the contract ending. City Attorney Huss stated that the contract terminates on June 30<sup>th</sup> and it will renew by mutual agreement. He does not feel the discussion has gotten into Building Inspector Hirsch's abilities other than people have praising his abilities. The Mayor has concerns over contract language but not with his abilities. Building Inspector Hirsch said that we can continue on and he sees what Mayor Grenz's concerns are with the contract. Mayor Grenz stated everyone is reading more into this matter than he is asking. He is asking to go through the contract and clarify some issues so there is not such a gray area in this - no more, no less. Both Mayor Grenz and Building Inspector Hirsch agreed to review the contract.

#### **APPOINTMENTS**

-None

#### **ADJOURNMENT**

\*\* *Councilperson Ahner moved to adjourn the meeting, seconded by Councilperson Uden and passed unanimously, 7-0. Meeting adjourned at 8:50 p.m.*

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**Chris A Grenz**  
**Mayor**

**ATTEST:**

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**Becky Stanton**  
**City Clerk**