

## REGULAR COUNCIL MEETING

September 11, 2012  
7:00 p.m.

### CALL TO ORDER

The Regular Council meeting was held Tuesday, September 11, 2012, in the City Hall Conference Room at City Hall, 17 S. 8<sup>th</sup> Street, Miles City, Montana. Mayor C. A. Grenz called the meeting to order. Council members present were Dwayne Andrews, Roxanna Brush, John Hollowell, Mark Ahner, Jerry Partridge, John Uden, Bill Melnik and Sue Galbraith.

Also present were Police Chief Doug Colombik, Legal Assistant Erica Griffith, Grant Administrator Dawn Colton, Public Utilities Director Al Kelm, Floodplain Administrator Dawn Colton, Building Inspector Dennis Hirsch and Council Recorder City Clerk Becky Stanton.

### PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

### APPROVAL OF COUNCIL & COMMITTEE MINUTES

#### **Special Council Minutes – 8/27/2012**

\*\* *Councilperson Ahner moved to approve the minutes of the Special Council Meeting of August 27, 2012, seconded by Councilperson Brush. The motion then passed unanimously, 8-0.*

#### **Regular Council Minutes – 8/28/2012**

\*\* *Councilperson Uden moved to approve the minutes of the Regular Council Meeting of August 28, 2012, with corrections, seconded by Councilperson Ahner. The motion then passed unanimously, 8-0.*

#### **Flood Control Committee Meeting – 8/23/2012**

The **Flood Control Committee** met Thursday, August 23, 2012, at 6:00 p.m. in the City Hall Conference Room. Present were Committee Chairperson John Hollowell and Committee Members Susanne Galbraith, Jerry Partridge and Dwayne Andrews. Also present were Floodplain Administrator Sam Malenovsky, Public Utilities Director Al Kelm, Program Administrator/Grant Writer Dawn Colton, Mayor C.A. Grenz and Recorder Billie Burkhalter.

##### **1. Discussion with the Engineering Firm of Kadrmas Lee & Jackson (KLJ) on Flood Plain Issues**

Representatives from KLJ explained at a previous meeting that the Committee had requested their company produce a preliminary analysis report on the dike and flood insurance study. They were asked specifically to explain in further detail why there are such abrupt surface changes in the flood plain elevations. Joel Paulsen, Professional Engineer with KLJ, explained the United States Army Corp of Engineers (USACE) Study, which is what FEMA used to base Miles City's flood maps on, used a method of one dimensional modeling, which can only force water going in one direction from Point A to Point B. The downfall of this method is that it cannot demonstrate water going sideways. In the USACE scenario, FEMA modeled three independent breaches in the Tongue River levee. Each of those breaches resulted in a specific corridor of where the water was going to go and modeled what the water would do at each breach.

Mr. Paulsen explained FEMA has accepted other forms of mapping, such as a two dimensional model analysis, which is basically a real life representation of taking the whole ground surface and showing where water is going to go. This would be a more realistic version of what would happen if the levy were to be

breached. In reference to the Yellowstone River, FEMA is in effect, not mapping any effective flooding from the Yellowstone; it is all coming from the Tongue River. If the Tongue River had a certified levy, the three surfaces would be mapped in a different zone and flood insurance would not be mandated in those zones.

Ed Quinlan, 914 Tatro, questioned how changing anything along the Yellowstone River changes anything on the map when it's the Tongue River that the map is showing. Mr. Paulsen stated a potential project that could be done is to build a levy along the Tongue River up to the Tongue and Yellowstone confluence. But, if a levy were to be built in this area, it would have negative effects on the Yellowstone River and that would have to be looked at and modeled.

Chairperson Hollowell questioned if remapping would result in a decrease in the flood plain through mistakes, errors or miscalculations within the USACE Study. Mr. Paulsen stated he did not see anything in the report that would lend itself to battling FEMA. There are a few things that could be done, but is unsure how effective this would be. He explained in the past, when his firm would question FEMA, most of the time they would get a vague response, but there is an option for rebuttal. The bigger question to FEMA is why wasn't a two dimensional analysis done, knowing that the technology exists. FEMA's program is based on the fundamental fact that it wanted to use the best technology and data to remap the flood maps. In this case, using an old technique and new data and coming up with a modified version of what Miles City had before is a misrepresentation.

Administer Malenovsky questioned that if a two dimensional model was completed, would this cause a drastic change in the flood plain and whether this project would be more cost effective than building a levy/dike. Mr. Paulsen responded that it would definitely reduce the flood plain, but the only way to know how much is to remap it. This would give a more accurate representation of how the water would flow. Director Kelm questioned if FEMA would do a two dimensional model at its cost. Mr. Paulsen explained that FEMA would state they do not have the funding for it and, therefore, Miles City would have to provide the funding.

After further discussion, it was decided that the option of doing a Request for Qualifications (RFQ) for a feasibility study with hydraulic modeling would be explored.

## 2. Requests of Citizens

No request of Citizens.

## 3. Adjournment

\*\* *Councilperson Andrews moved to adjourn the meeting, seconded by Councilperson Galbraith and passed unanimously, 4-0.*

There being no further business, the Committee adjourned at 7:00 p.m.

\*\* *Councilperson Galbraith moved to approve the minutes of the Flood Control Committee Meeting of August 23, 2012, seconded by Councilperson Hollowell. The motion then passed unanimously, 8-0.*

## Finance Committee Meeting – 8/30/2012

The **Finance Committee** met August 30, 2012, at 12:00 p.m. in the City Hall Conference Room. Present were Chairperson Mark Ahner and Committee Members Bill Melnik, Roxanna Brush and Jerry Partridge. Also present were Council Member John Uden, Mayor Chris Grenz, City Planner Dianna Broadie, Deputy Clerk Linda Wildman, and Recorder City Clerk Becky Stanton. Also present were County Commissioners Vicki Hamilton, Keith Holmlund and Jack Nesbit.

**Request to purchase City property by Barrie Matthews:** Purchase of land adjacent to the Big Sky Smile Center office.

Chairperson Ahner requested that Barrie Matthews explain what land he would like to purchase, and he explained that it is the land adjacent to his dental center. He has maintained that parcel since he purchased the adjacent land and building. He would like to plant grass and install a sprinkler system on it. It is approximately 35 feet wide by the whole length of the block and has a ditch running through it. It is about 10,000 square feet which includes part of the City's street. City Attorney Huss had asked him to try to get comparable values on buildable lots in the area. The values ranged from \$1.80 to \$3.25 per square foot.

Chairperson Ahner referred to Resolution 3364 which establishes procedures for the sale of City lands. He referred to Section 2, which refers to appraisals that are necessary if the land has a fair market value over \$25,000. He then referred to Section 6, which notes that the purchaser will pay all charges incidental to the conveyance and transfer of the lands.

Chairperson Ahner referred to Section 3, which requires a published notice for submission of written proposals. He asked that the notice be published and that Mr. Matthews submit a written proposal.

**Lease Proposal for Duane and Jane Bundy for grazing of City Property on perimeter of Sewer Treatment Plant.**

Chairperson Ahner explained the lease agreement to the Committee. He stated that the contract was for one year for grazing on 16.5 acres. Mr. Bundy has previously used this land for grazing. City Planner Broadie explained how the lease rate was determined. She researched the grazing prices and since the City does not provide fencing and water, a low end price of \$4.60 per acre was determined to be fair.

\* \* *Committee Member Partridge moved to recommend to the Council to approve the lease agreement. The motion was seconded by Committee Member Brush, and the motion carried unanimously, 4-0.*

**Request for contribution to fund County Jail Assessment - \$10,000.**

Chairperson Ahner requested Director of Miles City Area Economic Development Council (MCAEDC) Mike Coryell to explain the request to the Committee. It is a request of \$10,000 from the City for matching funds for grant applications for an assessment to be completed to determine the needs of the County Jail. The City's \$10,000 and the County's \$10,000 will be used to match a grant of \$35,000, which has been applied for from the Coal Board. He explained that Custer County has received a letter from the ACLU requesting that the jail be evacuated within 45 days. This will have significant financial effects on both the City and the County.

MCAEDC Grant Writer Julie Kurkow explained that an assessment would include a preliminary design; voters will need to know what the costs are for the County to transport prisoners, which jails will house the prisoners and what the needs of the community will look like over a period of time.

County Commissioner Holmlund shared that the estimated costs Custer County Sheriff Tony Harbaugh had calculated was \$235,000 per year. It could be up to four years before the new jail would be completed.

Mayor Grenz asked if Stevenson's Design had given an estimate for the cost of a new jail. County Commissioner Holmlund stated that if it was a new jail, it would possibly cost approximately \$5,000,000. If a law and justice center was incorporated, then it would cost approximately \$25,000,000. This is very preliminary and the assessment will determine what the needs are.

Chairperson Ahner stated that he felt there was a simple solution to this matter. The County had levied for the cost of operating a City/County Planning Board. The County had collected about \$22,000 in taxes. Then the County decided they wanted a County Planning Board instead of the combined Board. The County used about \$3,000 in attorney fees to set up the County Planning Board. The County needs to turn over the remaining money over to the City or refund it to the taxpayers. The City continues to provide for planning purposes, the zoning outside the city limits within the two miles radius. The City has continued to provide zoning services to the County and has not billed them for these services. It would be mutually beneficial to the County and the City to receive the grant funds for the assessment, but there needs to be a transfer of the levied funds for the City/County Planning Board to the City.

County Commissioner Nesbit stated that everything Chairperson Ahner said was correct and that the zoning has been provided for everything on the Baker Highway. County Commissioner Hamilton stated that State statute needs to be followed in order to repay the money back to the City. It will be on the County Commissioner's agenda in the near future.

MCAEDC Grant Writer Julie Kurkow asked if the Committee could make a statement of a financial commitment for the \$10,000 in order to meet the grant deadline of September 4, 2012.

\* \* *Chairperson Ahner moved to recommend to the Council to approve that the City provide \$10,000 out of the Planning and Community Budget for an assessment to be conducted for a jail in Custer County. The motion was seconded by Committee Member Melnik and the motion carried unanimously, 4-0.*

### Request of Citizens

-None

There being no further business, the meeting was adjourned at 1:18 p.m.

\*\* *Councilperson Ahner moved to approve the minutes of the Finance Committee Meeting of August 30, 2012, seconded by Councilperson Melnik. The motion then passed unanimously, 8-0.*

### SCHEDULE MEETINGS

**Planning Meeting:** Wednesday, September 12, at 6:00p.m.

**Public Safety:** Wednesday, September 12, at Noon

### REQUEST OF CITIZENS & PUBLIC COMMENT

-None

### PROCLAMATIONS

-None

### STAFF REPORTS

**DAWN COLTON, Grant Administrator – Update on Riverside Restroom Project:** Administrator Colton explained that there will be a pre-bid meeting at 9:00 a.m. Thursday, September 13<sup>th</sup>, and the bids will be opened at the Council meeting on September 25, 2012. The City received the rest of the grant for Spotted Eagle for a grand total of \$31,298. She has completed an AmeriCorps project concept form which is a request for assistance to City crews for repairing the fence by the underpass, removing the Russian Olive trees on the dike and assisting with spring clean-up.

#### **AL KELM, Public Utilities Director**

**Update on Fire Door** - nothing to report, but he has contacted three different vendors for fire alarms for City Hall.

**Strevell Street Project** – The plans have gone to DEQ for approval on the water lines for the four streets in the project.

**1911 Riverside Park Water Tank Removal** – completed  
The City is requesting bids on the old vehicles and the old swimming pool docks.

Councilperson Uden – Wanted to know what the plans were for the area and remaining materials of the old water tower. Public Utilities Director Kelm said there are plans to construct a sitting wall connecting the different footings together, the center will be filled in with concrete, there will be electricity to the site and there will also be a drinking fountain. The City is going to memorialize the old tank by incorporating a part of an old leg and the plug from the bottom of the tank that has Chicago Mill and Ironworks, 1911, Chicago, IL stamped in it.

Mayor Grenz said he had received a letter of interest on the old Fish and Game Building. He asked Public Utilities Director Kelm how he felt about that. Director Kelm said they are using the building for heated storage for some of the equipment that has water in them. He thought if the City could lease that building and take the proceeds from the lease to build an addition onto the old shop to store the above equipment that would work.

## **CITY COUNCIL COMMENTS**

Councilperson Galbraith – Miles City has received notice of a grant from Humanities Montana for 24 free programs. She just wanted to make everyone aware so they can watch for them. She also had someone contact her about someone burning plastic or oil products in their stove. She asked that individuals please be considerate of their neighbors.

Councilperson Uden – thanked and complimented the High Plains Classic Car Club for the exhibition they hosted in the park this weekend in conjunction with the 1962 Class reunion. There were over 200 vehicles on display with several states represented.

Councilperson Ahner – will be absent for more than ten days to include the next Council meeting, and requested permission from the Council to be excused.

\*\* *Councilperson Uden moved to approve Councilperson Ahner's absence, seconded by Councilperson Brush and the motion passed unanimously, 7-0, with Councilperson Ahner abstaining from voting.*

## **MAYOR COMMENTS**

Mayor Grenz said that Councilperson Ahner and he would be meeting with the County Commissioners to discuss the Interlocal Agreement.

The easement between Oftedal, Inc. and the Airport Commission will be drawn up by the Commission's attorney. They are also requesting compensation for the easement.

There have been four grievances filed by non-union employees in City Hall. Mayor Grenz visited with Attorney Larry Martin of Felt, Martin, Frazier, Weldon, P.C. and would like to put on the next Council agenda the issue of wages and adjustments for the grievances. He told the City Clerk that she would be getting her answer to her grievance on Thursday, which is the last day for him to respond.

## **APPOINTMENTS**

### **-- Mark Browning to Historic Preservation Commission**

\*\* *Councilperson Hollowell moved to approve Mark Browning to the Historic Preservation Commission, seconded by Councilperson Melnik and the motion passed unanimously, 8-0.*

## **PUBLIC HEARINGS**

-None

## **OLD BUSINESS**

-None

## **BID AWARDS**

Public Utilities Director Kelm opened the bid 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 Ahner moved to refer the above bid to the Finance Committee, seconded by Councilperson Uden and the motion passed unanimously, 8-0.*

## **NEW BUSINESS**

### **Approval of claims for August 2012**

\*\* *Councilperson Melnik moved to approve August claims, seconded by Councilperson Brush. On roll call vote, the motion passed unanimously, 8-0.*

**RESOLUTION NO. 3544:** Resolution Designating City Employees who are Authorized to Acquire Federal Surplus Properties from the State of Montana

\*\* *Councilperson Brush moved to approve the Resolution, read by title only, seconded by Councilperson Melnik. On roll call vote, the motion passed unanimously, 8-0.*

**RESOLUTION NO. 3545:** A Resolution Conditionally Committing \$10,000.00 Toward An Assessment Of The Custer County, Montana, Jail Facility, Including The Possibility Of Replacement Of Such Facility

\*\* *Councilperson Ahner moved to approve the Resolution, read by title only, seconded by Councilperson Uden. After discussion, and on roll call vote, the motion passed unanimously, 8-0.*

**RESOLUTION NO. 3546:** A Resolution Authorizing The Leasing To Duane Bundy And Jane Bundy, Of Miles City Montana, A Tract Of Land Owned By The City Of Miles City, Montana On The Perimeter Of The Sewage Treatment Plant In Section 22, Township 8 North, Range 47 East, M.P.M.

\*\* *Councilperson Galbraith moved to approve the Resolution, read by title only, seconded by Councilperson Melnik. On roll call vote, the motion passed unanimously, 8-0.*

**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 Ahner moved to approve the Resolution, read by title only, seconded by Councilperson Galbraith. After discussion, and on roll call vote, the motion passed unanimously, 8-0.*

**RESOLUTION NO. 3548:** A Resolution Authorizing A Grant Agreement Amendment With The Montana Department Of Fish, Wildlife And Parks Under The Recreational Trails Program For Improvements At Spotted Eagle Recreation Area And Authorizing The Mayor To Execute Such Agreement Amendment

*\*\* Councilperson Ahner moved to approve the Resolution, read by title only, seconded by Councilperson Andrews. After discussion, and on roll call vote, the motion passed unanimously, 8-0.*

**Request for Qualifications** for Feasibility Study for Flood Plain

Mayor Grenz asked Public Utilities Director Kelm to explain what the study entailed. He explained that it will help determine how the City wants to proceed with the dike and floodplain issues. To go forward with the Request for Qualifications, the City needs to determine the scope of the work, a list and scoring criteria. The City will send it out to numerous engineering firms and they will be able to do a package, which the City will score and rate. From there, the City will select an engineering firm. At this point, there is not any cost to the City.

*\*\* Councilperson Hollowell moved to proceed with the Request for Qualifications, seconded by Councilperson Brush. On roll call vote, the motion passed unanimously, 8-0.*

**ORDINANCE NO. 1247:** An Ordinance Revising Section 22-183 Of The Code Of Ordinances Of The City Of Miles City Regarding The Parking Of Large Vehicles, Permitting Parking Of Large Vehicles On The First Half-Block Of Sudlow Street And Tompy Street Immediately West Of South Haynes Avenue, And Providing An Effective Date Thereof

*\*\* The above Ordinance was pulled from the agenda by Mayor Grenz due to City Attorney Huss' opinion. The Mayor will take care of this item.*

**M & L Enterprises:** Request to Deviate from Subdivision Regulations for Seven Lots along Arrowhead Lane

Mr. Bruce Larson spoke on behalf of M & L Enterprises to explain the deviation from the Phase I plat. Councilperson Brush shared a memo that she received from City Planner Dianna Broadie before she left on vacation that stated DEQ has not approved the Phase I. Mr. Larson said that DEQ was not going to approve water and sewer that is already in place. M & L Enterprises want to deviate from the original Phase I by selling the seven lots along Arrowhead Lane. They are not changing the size of the lots. The water and sewer are already in place for the seven lots that they want to sell. They are selling them in order to generate cash flow so they can make improvements. They would stub into the existing main lines for water and sewer and after selling three or four lots, then make the improvements. City Sanitarian Mike Rinaldi and Public Utilities Director Kelm would have to get permission from the City Council to sign off on the water and sewer.

Mr. Larson referred to City Planner Broadie's memo, which said the road could be handled in three different ways. They could pave Arrowhead Lane prior to submitting the final plat for approval. Mr. Larson stated they probably would not do that unless they get approval for the final plat. They could get approval from Council for a Subdivision Improvement Agreement as a condition for approval for final plat. Or they could get approval for a Special Improvement District (SID) to pay for road improvements which would ensure the paving of the street is submitted for final plat approval. In order to set up SIDs, there is a protest hearing and property owners could protest the SIDs.

M & L Enterprises would like the City to agree to pay for paving the street and the developers would do the curb and gutters, the engineering, the grading and graveling.

According to the Subdivision Improvement Agreement, the Sub-divider is required to submit three bids for the unfinished work. Mr. Larson does not feel that applies since the Sub-divider has a Montana Contractor's license, they are bonded and would be doing their own work for which they are incurring the costs. He does not feel they would have to go to bid.

Councilperson Ahner is concerned about Southgate overall, including the egress/ingress issue and the storm water drainage issue. He is uncomfortable with an attempt to piece-meal this project. The storm water issue has not been addressed. He feels this development should be held to the same standards as the Miles Town development in putting in the lights, curb and gutters, streets and storm water drainage.

Mayor Grenz verified with Mr. Larson that the developers wanted the City to pay for the pavement. The Mayor was concerned over setting precedence in paying for paving of the streets.

Mr. Larson said the development of the seven lots would be in accordance with the preliminary plat plan that has been approved by the City Council.

Councilperson Brush, who chairs the Planning Board, said she was confused because she thought the plans had to be approved by DEQ. Therefore, the Planning Board was sure the storm drainage issues would be addressed by DEQ before lots were developed.

Councilperson Uden stated that he can't understand why the City should pay for the streets in this development, when all other developers previously paid for them. He is also concerned about seven more families putting stress on the ingress/egress issue at Southgate.

Councilperson Brush reminded Councilperson Uden that the secondary access was not part of the final plat approval.

Dave Jewel, 107 Ponderosa, has concerns about the drainage issues and feels that there should be a complete final engineering plan in place before anything is developed. He does not agree with the current engineering plan, as he noted in a letter he wrote earlier to the City, but DEQ needs to approve that plan before anyone proceeds. He does not feel that the burden of paving Arrowhead Lane should be placed on the residents of Southgate.

Mayor Grenz asked Assistant City Attorney Griffith her legal opinion. She would have to research the matter and get back to them.

*\*\* Councilperson Uden moved to approve the M & L Enterprises request for deviation from Subdivision Regulations for seven lots along Arrowhead Lane, seconded by Councilperson Partridge.*

Councilperson Hollowell asked Public Utilities Director Kelm for his input. He stated that, according to City Sanitarian Rinaldi, the seven lots that are located along existing developed water and sewer lines would not have to be approved by DEQ. He was unsure if the storm water drainage still needed to be reviewed by DEQ.



Mayor Grenz asked Councilperson Uden to consider changing his motion to reflect that developers would have to put in their own pavement.

*\*\* Councilperson Uden amended the original motion to approve the M & L Enterprises request for deviation from Subdivision Regulations for seven lots along Arrowhead Lane with the understanding that they would be responsible for curbs, gutters and paving on the portion of Arrowhead Lane that they intend to develop, seconded by Councilperson Partridge.*

Councilperson Ahner explained that he still could not support this amended motion because the City does not have final plat approval, does not have DEQ review of storm drainage, and is not sure if the developer should have to pave a street that should have been paved by someone else. He does not like the idea of piece-mealing the Phase I development.

Dave Jewel, 107 Ponderosa, said that three or four of the seven lots were supposed to flow into a retention pond. He asked if that pond would be developed along with the seven lots. Mr. Larson did not have the answer for him.

*\*\* Councilperson Hollowell amended the amended motion that the development be conditional upon all drainage issues be taken care of for the seven lots, seconded by Councilperson Partridge. On roll call vote, the motion passed 7-1, with Councilperson Galbraith voting nay.*

*\*\* Roll call vote was taken on the amended motion to require curbs, gutters and paving on Arrowhead Lane, and the motion passed 6-2 with Councilperson Hollowell and Ahner voting nay.*

*\*\* Roll call vote was taken on the original motion allowing the developer to deviate from the Subdivision Regulations and the motion passed 6-2 with Councilperson Galbraith and Ahner voting nay.*

**RESOLUTION NO. 3518:** A Resolution Authorizing the City Of Miles City to Contract With Dennis Hirsch For Building Inspection Services For Fiscal Year 2012-2013

This portion of the meeting was closed.

## **ADJOURNMENT**

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

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**C.A. GRENZ, Mayor**

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**Becky Stanton, City Clerk**