

CALL TO ORDER

The Regular Council meeting was held Tuesday, December 11, 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, Mark Ahner, Jerry Partridge, John Uden, Bill Melnik and Sue Galbraith.

Also present were City Attorney Jerry Huss, Deputy City Attorney Erica Griffith, Fire Chief Dale Berg, City Planner Dianna Broadie, Police Chief Doug Colombik, Public Utilities Director Al Kelm, Grant Administrator Dawn Colton 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

Regular Council Minutes – 11/27/2012

** *Councilperson Brush moved to approve the minutes of the Regular Council Meeting of November 27, 2012, seconded by Councilperson Melnik. The motion then passed unanimously, 8-0.*

Flood Control Committee Meeting – 11/29/12

The **Flood Control Committee** met Thursday, November 29, 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, Mayor C.A. Grenz, Public Utilities Director Al Kelm and Recorder HR/Payroll Officer Billie Burkhalter.

On roll call vote all members were present.

1. Recommendations to Flood Plain Administrator for an Engineering Firm for Flood Study

Chairperson Hollowell explained that each member who had assisted with scoring the Request for Qualifications for Engineering Services (RFQ) to assist with evaluating the recently revised Digital Flood Insurance Rate Map and completing engineering services related to the City's flood control system(s) would be giving their recommendations to Administrator Malenovsky. The three engineering firms that submitted RFQ's are Allied Engineering, Interstate Engineering and Kadrmass, Lee & Jackson Engineering (KLJ).

Committee Member Andrews stated his scoring was tied between Allied Engineering and KLJ Engineering, but believed any one of the Engineering Firms could complete the job. He recommended that the Committee should average out the scores and the highest firm be chosen.

Chairperson Hollowell stated his scores were very close between Allied and KLJ, but KLJ did get the higher score. He liked that KLJ picked a local contact who is a former Public Works Director who is very knowledgeable about the City. KLJ had more flood related projects and had a well-balanced workload, as they would have enough personnel to respond. Allied's flood projects were good too; they have a certified flood plain manager and they also have a well balance workload. Allied also addressed environmental impacts, which he particularly liked.

Committee Member Andrews did not feel that any of the Engineering Firms Public Plans were good enough. He stated that whatever is decided with the Flood plain, it needs to be in the news, the public needs to be informed, as it is important to Miles City. Director Kelm stated that out of all the firms, KLJ had at least two to three meetings, and they have the public more involved than any other.

Committee Member Galbraith stated that she also came up with Allied and KLJ. She really liked Allied's approach as to see what the City has now and what they can do with it before doing other expensive projects. She really liked how KLJ had come up to meet the Committee and made an effort to inform them. Committee Member Galbraith felt that both engineering firms really understood what the Committee is trying to do.

Director Kelm stated Allied and KLJ were his top picks too. But he did not like that Allied and Interstate had other firms they were partnering up with. He questioned what would happen if those contracted firms had to pull out of Allied or Interstate. Director Kelm stated he liked KLJ, as it would be their whole firm using their own resources and not having another firm to come in to do the work. Committee Member Galbraith stated she had the same concerns.

Administrator Malenovsky stated she also had scored KLJ and Allied higher than Interstate. KLJ did score the highest. She really liked that KLJ made a section for future projects and would like the ability to use the same firm through all the flood projects. She also liked KLJ's plan for public involvement. Committee Member Partridge stressed that public involvement needs to be started early in the process.

Chairperson Hollowell questioned Administrator Malenovsky as to the new Flood Ordinance that will be submitted to Council for approval. Administrator Malenovsky responded that the new Ordinance is more of a revamp to the old one; as it will be more black and white, but it will not affect the progress the Committee is trying to make.

The Engineering Firms were scored as follows:

Allied Engineering:	441
KLJ Engineering:	452
Interstate Engineering:	377

Director Kelm stated that normally the next step in this process is to take the top 2 or 3 firms and sit down and have a face-to-face interview.

Committee Member Partridge wanted the public to know that the City isn't hiring someone to do a specific job, but to do an assessment/study.

Chairperson Hollowell stated that Administrator Malenovsky and Director Kelm would need to meet and discuss how to proceed and then inform the Committee.

2. Requests of Citizens

Jerry Meidinger, 2718 Pleasant, questioned if the Committee could get an hourly rate from the engineering firms to get an estimate on what they charge per project. Director Kelm stated this isn't an hourly project; it would be more like a "scope of work" and the firms would complete the scope of work for an agreed amount of money. He further stated this was really the best way.

Ron Butler, 1020 N. 3rd, stated he was glad to see this going forward, but questioned why FEMA will not accept Miles City's dike. He pointed out there have only been 2 floods which were man made. Administrator Malenovsky stated Miles City's dike doesn't fit FEMA's classification or requirements.

3. Adjournment

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

There being no further business, the Committee adjourned at 6:45 p.m.

** *Councilperson Galbraith moved to approve the minutes of the Flood Control Committee Meeting of November 29, 2012, seconded by Councilperson Hollowell.*

** *Councilperson Ahner moved to approve corrections to the minutes of the Flood Control Committee Meeting of November 29, 2012, seconded by Councilperson Brush. The motion passed unanimously, 8-0.*

** *Original motion then passed unanimously, 8-0.*

Human Resources Committee Meeting – 12/04/12

The **Human Resources Committee** met Tuesday, December 5, 2012, at 12:00 p.m. in the Conference Room at City Hall. Present were Chairperson John Uden, Committee members Dwayne Andrews, Bill Melnik, and John Hollowell. Also present were Mayor C.A. Grenz, Councilpersons Sue Galbraith and Roxanna Brush, City Clerk Becky Stanton, Deputy City Clerk Linda Wildman, Ambulance Billing/Finance Clerk Connie Watts, Auto Cad Technician/Flood Plain Administrator/Asst. to Public Works & Public Utilities Administrator Samantha Malenovsky, Grant Administrator Dawn Colton, Engineering Secretary Dianna Larson, Police Chief Doug Colombik and Recorder HR/Payroll Officer Billie Burkhalter.

1. Roll Call:

- Noted above

2. Discussion on proposed mediation relating to requests for wage/salary enhancements:

Chairperson Uden stated they had conferred with both the City Attorney and Laborer Negotiator and they stated mediation talks are open to the public, as this is not a grievance hearing. The entire City Council can be present and ask questions. Councilperson Galbraith questioned that if this mediation is because of a grievance, then shouldn't it be closed? Chairperson Uden stated this is mediation to avoid a grievance hearing. Committee Member Andrews inquired as to the mediator. Chairperson Uden responded that the Council has agreed to Attorney Jeanette Jones, but if the grievants disagree, then the attorneys would have to figure it out.

Mayor Grenz wanted to bring to the attention of the Committee that even if mediation is completed, it doesn't mean that it has to be accepted; it would still need to be brought in front of the Council. Chairperson Uden further stated that the mediator would not make any decisions, but would be there as a referee, making sure appropriate questions are being asked and witnesses are appropriate. Committee Member Andrews questioned how this mediation would work. Chairperson Uden explained the Attorneys can present questions, as well as the grievants, Committee and Council. Based off of these questions, the responses and the evidence as presented, the Committee will determine whether or not specific raises or changes in benefits requested by the grievants are appropriate. The Committee will then make a recommendation to the Council as a whole.

HR/Payroll Officer Burkhalter stated that the Committee keeps talking about the financial impacts to the City. She pointed out that all the grievants are asking for is to be treated fairly and be recognized by the Wage/Salary Survey Study. This Committee had at one point had made a recommendation to go back to the people who did the survey and have them complete it, and now the City is paying \$200 an hour for the laborer negotiator and other numerous expenses.

Councilperson Galbraith questioned why pay information has been left out of some positions but included in other positions in the Salary Survey. She cited the City Clerk position had missing salary amounts in locations such as Whitefish and other surveyed cities. She stated she called these cities and was able to obtain the figures. Engineering Secretary Larson stated this is exactly what happened in her position, along with incorrect information. HR/Payroll Officer Burkhalter stated the Salary Survey is deeply flawed and incomplete. Councilperson Galbraith stated this needs to be addressed, as they are spending taxpayer money on a \$200 per hour attorney, and she wants to know why those amounts were not included in the study. Chairperson Uden stated this will be addressed at the mediation talks and they will have to decide if the evidence presented supports this. Councilperson Galbraith stated that since this is really a subjective study, why couldn't the Committee or Council get together and discuss this? Chairperson Uden explained it is because a grievance was filed and they have to follow procedure.

Mayor Grenz stated he took a trip to all the surveyed Cities and what he found was that no two cities have the same structure; job descriptions vary so much that there is no way to compare. Councilperson Brush noted that the study was initiated before her term and former Mayor Whalen decided how the study would be administered. HR/Payroll Officer Burkhalter pointed out that this study was adopted by this Council and not one salary survey meeting was held until after Joe Whalen's term had ended. Secretary Larson stated it is unfair that she has worked for the City for 20

years and is frozen for 6 years on incorrect information in the survey.

Deputy City Clerk Wildman clarified that the salary survey was based solely on job titles and nothing else. Chairperson Uden agreed and further explained the survey was supposed to be based on base salary with no consideration to longevity or any other benefit. When that Committee was presented with the survey, they were told that it was based on base salary.

****** *Committee Member Hollowell moved to recommend to Council that the mediation be held in Miles City. Motion seconded by Chairperson Uden.*

City Clerk Stanton stated she was fine with the Council and media being present. She stated that the City was spending a tremendous amount of money on attorneys. When the taxpayers find out that all the grievants were asking for was to have their positions looked at for a possible increase and it progressed to this they will not be happy.

Chairperson Uden stated he would have liked to sit down with these individuals before the grievances were filed to see what they could work out, but once it was filed there was nothing they could do. City Clerk Stanton pointed out that this Committee had recommended going back and having MSU complete this study, and that has not been done. Chairperson Uden explained it doesn't matter if that was done or not because once a grievance is filed, they have to follow procedure. HR/Payroll Officer Burkhalter pointed out the City's personnel policy manual does have procedures. Step 1: an informal review was followed and it was denied. Mayor Grenz explained that in the Letter of Agreement the grievants had a person representing them and he signed off on it. HR/Payroll Officer Burkhalter explained Police Chief Colombik was our representative and he did give his recommendations.

****** *On roll call vote the motion passed unanimously.*

3. Review job descriptions of Deputy City Clerk and Finance Clerk and compensation recommendations:

Chairperson Uden informed the Committee they had been provided a revised job description for the Deputy City Clerk position. The words in red represent information that has been deleted and the words in blue represent the words that have been added.

Chairperson Uden explained, for informational purposes that City Clerk Stanton had requested relevant job descriptions from Local Government Commission in Bozeman. City Clerk Stanton corrected Chairperson Uden that she had not made this request and believed Mayor Grenz had. Mayor Grenz responded that it was the City Clerk who had requested this. Chairperson Uden stated the job descriptions were from the Town of Plains and Helena.

Chairperson Uden stated the City's attorneys have reviewed the original and amended job descriptions for the Deputy City Clerk and have made the following recommendations: keep the original and revised edits and combine them into one job description; eliminate, under Education and Experience: "will be preferred" and "Preference will be given to Certified Municipal Clerks".

City Clerk Stanton requested clarification as to who had recommended these changes. Chairperson Uden stated Attorney Huss had. He further explained Attorney Huss stated that having this information in a job description could potentially lead to civil litigation against the City for hiring someone who was not under the preferred designation. Committee Member Hollowell questioned why there was a need to remove certified municipal clerks? Chairperson Uden stated because the "preferred" is in that sentence. Committee Member Hollowell questioned if they could ask for it but not prefer it? He then asked City Clerk Stanton her opinion.

City Clerk Stanton explained that when she had received the packet for this meeting, she had noted the two job descriptions and contacted Betsy Webb from Local Government Center. City Clerk Stanton asked why she had sent two job descriptions that had no relevance to the position in Miles City. One is from Helena, which is a management form of government and is strictly a clerical position, and the other, from the Town of Plains, is a Clerk/Treasurer position. Betsy Webb suggested she go on List Serve and request more relevant descriptions. She reviewed what she had received and all of them had preferred or recommended the clerk training at the MMCT&FO Institute.

Chairperson Uden suggested placing in the description "within the 1st year of employment receive certification". City Clerk Stanton explained it takes 3 years to be certified. Regardless, if they have municipal clerical experience, they should be preferred. HR/Payroll Officer Burkhalter stated that preference is commonly used in many of the City's job descriptions. If the attorney is having an issue with that phrase being used, the Committee needs to look at all the City's job descriptions. Councilperson Galbraith stated she had made several phone calls to other

Government agencies and they all had "preference" in their job descriptions. Committee Member Andrews stated he has seen a lot of job descriptions with preference in it.

*** Committee Member Andrews moved to add the following language to Education and Experience: "The above knowledge, skills, and abilities are typically acquired through a combination of education and experience equivalent to: "Certified Municipal Clerk qualifications" and to delete "preference will be given to Certified Municipal Clerks". The motion was seconded by Committee Member Melnik.*

Councilperson Brush questioned whether Committee Member Andrews was taking out everything from Education and Experience. Committee Member Andrews stated he was not taking out anything other than clarifying the Certified Municipal Clerk qualification. He stressed in the job description there is nothing that states a person has to have all this to be hired.

*** On roll call vote, the motion passed unanimously.*

*** Chairperson Uden moved to accept the entire revised Deputy City Clerks job description dated 12/04/12 with retaining both the red and blue subtractions and additions. The motion was seconded by Committee Member Melnik.*

*** Chairperson Uden moved to amend the original motion to eliminate under Essential Functions: "Accounts Receivable", eliminate under Payroll: "15th and last day of each month", eliminate under Job Requirements; "and use" and "pay", eliminate under Areas of Job Accountability and Performance: "the Mayor or". The motion was seconded by Committee Member Hollowell.*

Committee Member Andrews questioned if this position would prepare and distribute checks for payments. Chairperson Uden stated yes. City Clerk Stanton stated this position would not. Committee Member Andrews stated he did not feel the Committee should be putting in job requirements that the position does not do. Chairperson Uden stated as the Finance Clerk, they would do it. Committee Member Andrews clarified this is the Deputy City Clerk position. City Clerk Stanton stated this is the real issue; the City has a Finance Clerk that will do accounts payable and accounts receivable, this process is trying to eliminate that position now, even though the position is budgeted for until July 1st. Chairperson Uden explained that it doesn't hurt to add this into the job description and assured her that it could be changed at any time. City Clerk Stanton stated if and when the Finance Clerk position is cut from her budget then that would be the time to address it. Mayor Grenz stated it would be advantageous to have someone trained for the Finance Clerk position in case they lose that position. If it is in the job description, then they should be learning that position. City Clerk Stanton stated her concern for the new Deputy's work load. She pointed out there will be a lot to learn with the current job functions without adding the accounts receivable/payable responsibilities. Chairperson Uden pointed out that the Deputy Clerk's duties would be under her direction.

Chairperson Uden stated there wasn't anything in the job description that couldn't be amended at a future meeting if necessary. City Clerk Stanton stated she felt it should be amended now. Chairperson Uden stated he would not accept any of the City Clerk's requested amendments, as the City Attorney recommended they remain. Councilperson Galbraith asked who had contacted the City Attorney, and, if it was by email, she would like to see it. Chairperson Uden stated she would see it when it goes to Council as a whole, but she does not sit on this Committee and does not have a vote. Councilperson Galbraith responded that she is a Councilperson and therefore entitled to request public records. Chairperson Uden stated he directly spoke with Attorney Huss concerning this job description and he is the one that made the recommendation that the information stays in and that the recommendations he made to Mayor Grenz stand. Committee Member Hollowell stated that if all the duties as stated are kept, then little would be left for the Finance Clerk position.

*** On amended motion and on roll call vote motion passed unanimously.*

*** Committee Member Hollowell moved to amend the original motion to eliminate under Summary of Work: "Information Systems, all Accounts Payable and all Accounts Receivable (excluding utility billing) with Financial and Administrative Services", under General Duties: eliminate "Prepare and distribute the checks for the payment of city procurement. Bill all accounts receivable (licenses, contracts, agreements, leases miscellaneous" eliminate the entire "Accounts Payable", eliminate under Job Performance Standards: "Prepares and distributes checks for payments of City Procurement", eliminate under Personnel Management: "Union Contract" seconded by Andrews and on roll call vote, motion passed unanimously.*

*** On original motion, as amended and, on roll call vote, motion passed unanimously.*

Chairperson Uden stated he did not see anything wrong with the presented Finance Clerk job description.

** *Committee Member Uden moved to approve the presented job description for the Finance Clerk, seconded by Committee Member Melnik and, on roll call vote, motion passed unanimously.*

** *Chairperson Uden moved that the compensation for the Deputy City Clerk be forwarded to the Finance Committee for its recommendation.*

City Clerk Stanton pointed out that the entry wage had already been determined from the Wage Analysis Study. Committee Member Hollowell stated the Study was passed by the Council and needs to be followed. HR/Payroll Burkhalter explained that the Committee had previously advertised the Director of Public Works position with the wage in the Study without the Finance Committee's approval. She questioned why this situation would be different, as this has also been budgeted. City Clerk Stanton stated it has been budgeted for at the Wage Analysis Study rate.

** *The motion died without a second*

** *Committee Member Andrews moved to advertise Deputy City Clerk and Finance Clerk position at the adopted Wage and Analysis Study, seconded by Committee Member Hollowell and, on roll call vote, motion passed unanimously.*

4. Request of Citizens

- None

5. Adjournment

** *Committee Member Melnik moved to adjourn the meeting. The motion was seconded by Chairperson Uden and passed. The meeting was adjourned at 1:25 p.m.*

** *Councilperson Uden moved to approve the minutes of the Human Resources Committee Meeting of December 4, 2012, seconded by Councilperson Melnik. The motion then passed unanimously, 8-0.*

Finance Committee Meeting – 12/05/12

The **Finance Committee** met December 5, 2012, at 12:00 p.m. in the City Hall Conference Room. Present were Chairperson Mark Ahner and Committee Members Jerry Partridge, Bill Melnik and Roxanna Brush. Also present were Councilpersons Sue Galbraith, Dwayne Andrews, and John Uden, Mayor Chris Grenz, Grant Administrator Dawn Colton, Public Utilities Director Al Kelm, Park Superintendent Brady Stone and Recorder City Clerk Becky Stanton.

Review Safe Routes to School:

Chairperson Mark Ahner explained that about a year ago, the Council had agreed to utilize the City's CTEP money to pay up to 10% of the cost, but not to exceed \$25,000 for sidewalks for Safe Routes to School. City Attorney Huss was concerned about the City being responsible for the maintenance of the sidewalks. It was determined that the City would only be responsible for the maintenance of the sidewalks around the Milwaukee Park, and the homeowners would be responsible for their own sidewalks in front of their homes. The other concern was about the indemnification clause under item number 12. It was determined by Montana Municipal Insurance Agency (MMIA) and City Attorney Huss that the State and Department of Transportation would have little responsibility in regards to this entire project. They are now okay with the CTEP/SRST Project Specific Agreement.

Tara Andrews, 1211 N Custer, has been the lead on this project and the grant. The current CTEP grant will provide sidewalks from N. Montana, then down Lincoln over to Riverside. There is a second grant that will need to be completed by the end of December that will take the sidewalks to the Headstart Building. This grant will be awarded next September. The current grant funds are \$90,972 to provide sidewalks down Lincoln Street and \$23,414 for North Montana.

** *Chairperson Ahner moved to recommend that the Council approve the Safe Routes to School Agreement. The motion was seconded by Committee Member Brush, and motion carried unanimously, 4-0.*

Review Change Order Request for Dick Anderson project on Haynes Avenue Lift Station.

Public Utilities Director Kelm explained that the change order for \$69,867 is to relocate the lift station itself, provide for additional piping for the force main as well as the influent line for the wet well, and the additional digging of linear feet. The City had to move a water line. The engineering firm of Robert Peccia and Associates has

reviewed and approved of the change order.

* * *Committee member Brush moved to recommend that the Council approve the change order for Dick Anderson Construction Inc. in the amount of \$69,867 dated November 5, 2012. The motion was seconded by Committee Member Melnik; the motion carried unanimously, 4-0.*

Review Ahanu/CMG Surety Final Payment for the Cenex/Dickinson project

Lonni Fleck with Interstate Engineering explained worksheets that she handed out to the committee members. The original contract amount was \$434,988. There have been six change orders on this project for total increase in costs of \$167,833.81. Change Order Six is for \$34,075.33 and needs Council approval for payment. The final contract amount to the City is \$602,821.81. She would recommend approval of Change Order Six but contingent upon signed settlement agreement which has been drafted by Interstate Engineering Inc.'s attorney. It was then reviewed by City Attorney Huss and sent to the surety for Ahanu/CMG. Once the agreement, signed by all parties, is received, Change Order Six will be paid. Ahanu/CMG will have no further claims against the City.

* * *Chairperson Ahner moved to recommend that the City Council approve Interstate Engineering Inc.'s settlement agreement proposal with Ahanu/CMG and the surety company and approve Change Order Six in the amount of \$34,075.33 to finalize the 20" project on Main Street and Dickinson. The motion was seconded by Committee Member Melnik; the motion carried unanimously, 4-0.*

Review Proposed Contract for City Sanitarian for sanitation inspections and water, sewer, and storm water systems in subdivisions

Chairperson Ahner explained that the new contract for the City Sanitarian is for \$33,000. The City currently has \$35,000 budgeted for Fiscal 2012-2013. Committee Member Brush had visited with Health Board Chair Sharon Wilcox and given her a copy of the contract. Ms. Wilcox mentioned it would be nice for the Council to get a recommendation from the Health Board. Councilperson Uden mentioned that the City brought in approximately \$10,000 in fees from the Sanitarian's inspections.

* * *Committee member Brush moved to recommend that the Council approve the contract for the City Sanitarian. The motion was seconded by Committee Member Melnik; the motion carried 3-1, with Committee Partridge voting nay.*

Review Proposed Contract for Code Enforcement Officer for Miles City

Chairperson Ahner explained that the contract is for Mike Rinaldi to perform nuisance inspections for the City for \$20,000. It is currently not in the budget. He is opposed to this contract. He believes the Police Department, in working with the different mayors, was able to do the work for nuisances. The exceptions were a few complex nuisances.

Committee Member Partridge said he was going to have to vote for this. He believes it is a good idea to have a Code Violation Officer and there are a number of violations throughout town. Committee Member Brush agreed with him.

Chairperson Ahner mentioned that possibly Mr. Rinaldi would work on an hourly basis or a nuisance basis for the complex nuisances, and the Mayor and the Police Department could work on the other nuisances. He made note that the contract states that the proposal is open for further discussion.

Mayor Grenz mentioned that City Attorney Huss pointed out that the City Ordinance requires explicit mention of a Code Enforcement Officer.

* * *Committee member Partridge moved to recommend that the Council approve the contract for the Code Enforcement Officer. The motion was seconded by Committee Member Brush; the motion failed 2-2, with Chairperson Ahner and Committee Member Melnik voting nay.*

Request of Citizens

There being no further business, Committee Member Partridge moved to adjourn the meeting, seconded by Committee Member Melnik. The meeting was adjourned at 1:02 p.m.

** *Councilperson Ahner moved to approve the minutes of the Finance Committee Meeting, with a correction. The motion was seconded by Councilperson Brush and passed unanimously, 8-0.*

Public Safety Committee Meeting – 12/05/12

The **Public Safety Committee** met Wednesday, December 5, 2012, at 6:00 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, Police Chief Doug Colombik and Committee Recorder Connie Watts.

REVIEW POSSIBLE AMENDMENTS TO ARTERIAL STREETS IN ORDINANCE NO. 1231

Chairperson Uden said this item had been through this Committee before going to first reading at the last Council meeting, where no changes were proposed.

Committee Member Ahner added that it is before this Committee again because of the requirements of Ordinance 1201, which requires all ordinances must go to committee after the first reading and before the second reading and final adoption.

** Committee Member Ahner moved to recommend approval of Ordinance 1231, seconded by Committee Member Andrews and, on roll call vote, passed unanimously, 4-0.

CITIZEN REQUEST

Committee Member Ahner noted that he had been approached by a citizen about "jake brakes." He asked that individual to call Chairperson Uden so the issue could be placed on a future Safety Committee meeting agenda.

ADJOURNMENT

** *Having no more business before the Committee, Committee Member Ahner moved to adjourn, seconded by Committee Member Uden and passed unanimously. The meeting was adjourned at 6:10 p.m.*

** *Councilperson Uden moved to approve the minutes of the Public Safety Committee Meeting of December 5, 2012, seconded by Councilperson Galbraith. The motion then passed unanimously, 8-0.*

SCHEDULE MEETINGS

Public Safety Committee Meeting: Tuesday, December 18, at 12:00p.m. - Noon

REQUEST OF CITIZENS & PUBLIC COMMENT

-None

APPOINTMENTS

-None

PROCLAMATIONS

-None

STAFF REPORTS

-None

CITY COUNCIL COMMENTS

Councilperson Andrews – inquired if any applications were received for the Public Works Director position. Mayor Grenz replied that the two original applicants had reapplied.

Councilperson Uden – inquired about the process to hire a new City Attorney, since Mr. Huss will be resigning January 4, 2013, to become a District Judge. City Clerk Stanton explained that the process has been started. The City currently does not have a job description approved for that position, as the City Attorney was originally a contracted position. Human Resource Officer Billie Burkhalter had sent some sample job descriptions over to his office. City Attorney Huss stated that he had sent a job description over to Human Resource Officer Burkhalter today.

Councilperson Brush – there are eight City Court individuals attending the City Council meeting to serve their Community Service hours.

Councilperson Ahner – There is a Council meeting scheduled for Christmas Day. He thanked the County Commissioners for paying the \$22,000 of Planning funds that had been previously contested.

** *Councilperson Uden moved to abandon the Council meeting scheduled on December 25, 2012, seconded by Councilperson Brush. The motion then passed unanimously, 8-0.*

MAYOR COMMENTS

Mayor Grenz had attended an MMIA meeting in Glendive today. They had suggested placing ground rules for Council meetings on the back of the agendas. Also he said the City needs to have the names of the community service individuals in order to have them covered under Workers' Compensation. City Clerk Stanton mentioned that the City is already on top of that issue with other Court workers and volunteers.

PUBLIC HEARINGS

ORDINANCE NO. 1248: An Ordinance Amending Section 22-2(2) Of The Code Of Ordinances Of The City Of Miles City, Montana Amending The Designation Of Arterial Streets Within The City Of Miles City

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

OLD BUSINESS

ORDINANCE NO. 1248: An Ordinance Amending Section 22-2(2) Of The Code Of Ordinances Of The City Of Miles City, Montana Amending The Designation Of Arterial Streets Within The City Of Miles City

** *Councilperson Uden moved to approve the Ordinance, seconded by Councilperson Melnik. On roll call vote, the motion then passed unanimously, 8-0.*

RESOLUTION 3575: A Resolution Authorizing Amendment Of An Ambulance Billing Services Agreement Between The City Of Miles City And Montana Emergency Health Care Consultants, Inc., A Montana Corporation, Doing Business As Solestone Reimbursement Services.

*** Councilperson Brush moved to approve the Resolution, seconded by Councilperson Galbraith. On roll call vote, the motion then passed unanimously, 8-0.*

BID AWARDS

-None

BID OPENING

-None

NEW BUSINESS

RESOLUTION NO. 3563: A Resolution Authorizing A Grant Agreement With The Montana Department Of Transportation Under The Community Transportation Enhancement Program-Safe Routes To School Project To Provide Safe And Convenient Walking To Garfield School And Authorizing The Mayor To Execute Such Agreement

*** Councilperson Brush moved to approve the Resolution, seconded by Councilperson Ahner.*

Councilperson Ahner explained that, about a year ago, the City Council had approved from the City's CTEP account 10% of the total costs for the Safe Routes to School Project, or a maximum amount of \$25,000. The total costs of this phase are \$127,598, so the total match of \$1,773 is paid by the City's Street Maintenance Fund.

City Attorney Huss read from the Finance Committee minutes dated December 5, 2012. They mentioned that City Attorney Huss was concerned about the City being responsible for maintenance of the sidewalks. It was determined in that meeting that the City would only be responsible for the sidewalk around Milwaukee Park and the homeowners would be responsible for their own sidewalks in front of their homes. The City Attorney stated that was not correct. The law says the City has a non-delegable duty to take care of its sidewalks. The City has an Ordinance that says the people that adjoin the sidewalk must keep it free of snow and maintain it. He said that ultimately it is the City's responsibility, as was proven in a claim on an individual who had an incident on South Haynes Avenue in front of Hardees. He is not opposed to this project, but he wants the City to be aware that maintaining the sidewalks is the City's responsibility. He also reminded the City that they are contractually stating to the State of Montana that the City will maintain the sidewalks.

Councilperson Ahner mentioned that the information the Finance Committee received was from the Montana Department of Transportation (MDOT) and they said the City Ordinance would apply in regards to adjacent private property owner's sidewalks. In regards to the sidewalk around Milwaukee Park, MDOT does not monitor the maintenance of sidewalks anywhere.

*** On roll call vote, the motion then passed unanimously, 8-0.*

JOINT RESOLUTION NO. 3565: RID #1A: Joint Resolution Relating To A Proposed Rural Special Improvement District Which Is Intended To Include Four Parcels In The City Of Miles City Abutting The Proposed County Rural Special Improvement District Boundary,

For The Purpose Of Providing For The Payment Of A Portion Of The Design And Construction Costs For Reconstruction Of An Existing Wastewater Collection System And Financing The Costs Thereof And Incidental Thereto Through The Issuance Of Custer County Rural Special Improvement District Bonds Secured By A Rural Special Improvement District Lien, A Reserve Account And The County's Rural Special Improvement District Revolving Fund

** *Councilperson Galbraith moved to approve the Resolution, seconded by Councilperson Melnik.*

Mike Coryell of the Miles City Economic Development Corporation (MCEDC) explained they have been working on the RID#1 sewer line project for several years. They are now moving forward with it. There are four properties in this district and the other properties are in Custer County. There will be no cost to the City.

Public Utilities Director Kelm explained that there were not any City services available to these four properties and that is why they are in RID#1. He asked Mr. Coryell if these properties would be charged the same as the ones in the County. Mr. Coryell said yes.

Councilperson Ahner asked that, if the total cost of the project is \$1,990,000 and of that cost the assessed portion is \$288,000, then a large majority of the costs are being paid for by grants. Julie Kurkow, Grant Writer for MCEDC, stated that was correct. She said that loan amount of \$288,000 is with USDA, TSEP, and CDBG. There is a small amount of money from RID#1.

** *On roll call vote, the motion then passed unanimously, 8-0.*

RESOLUTION NO. 3566: A Resolution Authorizing The Placement Of Stop Signs On The Intersection Of Pleasant Street And North Center Street

** *Councilperson Brush moved to approve the Resolution, seconded by Councilperson Uden.*

Public Safety Committee Chairperson Uden explained that a resident in the area has had property damage due to excessive speed from vehicles driving through this intersection. He explained that there was evidence of the problem on the surrounding properties. He also mentioned that the police department was in favor of placing stop signs on each street of the intersection.

Councilperson Hollowell stated he is familiar with this area and he is concerned that the Council is having traffic stop for a curve. It seems to be a strange place for stop signs.

Councilperson Partridge stated he has always voted against stop signs as a way to control speed. He does not believe that is the purpose of a stop sign and therefore he will vote against this Resolution.

Councilperson Brush stated that the reason this item is before the Council is because a homeowner sustained property damages on two different occasions from two separate Driving Under the Influence (DUI) cases within two weeks. Neither driver had insurance.

** *On roll call vote, the motion passed 5-3, with Councilpersons Partridge, Hollowell and Andrews voting nay.*

RESOLUTION NO. 3567: A Resolution Approving Tax Compliance Procedures Relating To Tax-Exempt Bonds

** *Councilperson Ahner moved to approve the Resolution, seconded by Councilperson Uden. On roll call vote, the motion passed unanimously, 8-0.*

Discussion on Revising Ordinance No. 1201 – Sending Ordinances to Committee between First and Second Reading

Councilperson Ahner explained that the concern is that it seems some items appear to go to committees twice, as well as first reading, a public hearing and a second reading before the Council. He said there is concern to try and expedite the Council's actions. He suggested a possible solution by changing the word **shall** to **may** in the third sentence under Sec 2-26. It would read ". . . ~~the proposed ordinance shall~~ may be referred by the mayor to a suitable committee." He also suggested changing it to read "The ordinance may be referred by the mayor, with the consent of the majority of the council, to a suitable committee." With this change, an ordinance may or may not go back to a committee. City Attorney Huss explained that an ordinance would come up for first reading and then may or may not go to a committee before the public hearing and second reading. Montana state statute does not provide anything for City committees. The City Council has decided to send ordinances to committees. He suggested the amendment to the ordinance could read "upon first reading with passage, if the Council decides to send it to committee, the Council could refer it to a committee. If the Council does not make a motion to send it to committee, then it would only go on to the public hearing and the second reading.

Councilperson Ahner explained that the Arterial Streets Ordinance went to the Public Safety Committee first then, after being revised, it went to City Attorney Huss to redraft, and then it went to Council for first reading. Then the Mayor had to refer it back to the Public Safety Committee which had already reviewed it, and then it came back again to Council for a public hearing and a second reading. The original purpose of the Ordinance was to ensure a committee had a chance to review the information at least once before a public hearing.

Councilperson Galbraith believes that it is important for Ordinances to go to Committee at least once.

Councilperson Brush asked why the Council could not just leave the Ordinance to read "the proposed Ordinance shall be referred by the Mayor to a suitable committee unless the Ordinance came from one." City Attorney Huss stated that there are times when an Ordinance comes from Committee to him and it needs to be changed significantly. If it goes to first reading after it has been changed, it would then need to go to Committee again before the public hearing and second reading.

Councilperson Partridge stated that he was going to vote against any change to the Ordinance because it seems to leave the Council open to unintended consequences. He would prefer to keep things as they are.

Councilperson Ahner agrees with Councilperson Partridge. Even though it seems to be onerous, he feels it is important to sift through each ordinance. This process does take time but, it is necessary.

Councilperson Andrews would like to see it streamlined in order to increase the efficiency of the process. He does not feel it needs to go back to committee three or four times. He thinks if the Council has some mechanism to go back to committee, it can. It seems redundant to send each Ordinance automatically to Committee.

** *Councilperson Hollowell moved to direct the City Attorney to draft an amendment to Ordinance No. 1201 to provide by majority vote of the Council for referral to a committee, seconded by Councilperson Brush. On roll call vote, the motion failed 3-5, with Councilpersons Galbraith, Melnik, Uden, Partridge, and Ahner voting nay.*

RESOLUTION NO. 3568: A Resolution Authorizing The City Of Miles City, To Enter Into A State-Local Disaster Assistance Agreement With The Federal Emergency Management Agency And The Montana Disaster And Emergency Services Division For The Hazard Mitigation Grant Program

** *Councilperson Brush moved to approve the Resolution, seconded by Councilperson Galbraith. On roll call vote, the motion passed unanimously, 8-0.*

RESOLUTION NO. 3569: A Resolution Of The City Of Miles City, Montana, Designating The City Clerk, As The City Of Miles City's Representative For The Hazard Mitigation Grant Program

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

Councilperson Andrews said he has no problem with the City Clerk handling this, but it does not seem to fit her duties. Grant Administrator explained that the City Clerk is mostly the contact for the sponsors to correspond with. Grant Administrator Colton will handle the claims. Councilperson Hollowell asked City Clerk Stanton to weigh in on the topic. She said she is the representative on most City grants and agrees to be the representative. She thanked him for asking.

** *On roll call vote, the motion passed 7-1, with Councilperson Andrews voting nay.*

RESOLUTION NO. 3570: A Resolution Authorizing Change Order No. 1 To Dick Anderson Construction, Inc. On The Contract For The Haynes Avenue Lift Station Project

** *Councilperson Ahner moved to approve the Resolution, seconded by Councilperson Brush.*

Councilperson Ahner explained that the Finance Committee had sent this to the Council with a recommendation to approve after hearing the explanation for the change order from Public Utilities Director Kelm.

** *On roll call vote, the motion passed unanimously, 8-0.*

RESOLUTION NO. 3571: A Resolution Authorizing The City Of Miles City To Enter Into An Agreement With Tumblewood Development, Inc. For Sanitation Inspection Services For Calendar Years 2013.

** *Councilperson Ahner moved to approve the Resolution, seconded by Councilperson Melnik.*

** *Councilperson Uden moved to amend the Contract to read (Exhibit A) paragraph H "Serve as code enforcement officer for public nuisances within the city limits." Councilperson Ahner seconded the motion.*

Councilperson Ahner noted that under the third paragraph of the Resolution, it states that the "City of Miles City Health Board has recommended that the contract of Tumblewood Development, Inc., a Montana corporation,". He does not believe that the Health Board has recommended this contract.

Councilperson Brush asked City Attorney Huss if it is required by Ordinance for the recommendation to come from the City Health Board. City Attorney Huss noted that it is state law that the City Health Board hires its staff and since, they are City Employees, it has to be ratified by the Council. It is a contract, and the Mayor and the Council are the only ones who can contract for the City. She talked to Health Board Chair Sharon Wilcox and let her know they need to meet on it. To date, there has not been a meeting scheduled.

** *Councilperson Uden moved to withdraw his motion to amend the contract. Then he moved to table this item until the City Health Board had an opportunity to review the contract. Councilperson Uden withdrew the motion to table this item.*

** *Councilperson Ahner withdrew his motion to approve the Resolution.*

** *Councilperson Ahner moved to refer the Resolution and attendant contract to the City Health Board for its review and approval, seconded by Councilperson Brush. The motion then passed unanimously, 8-0.*

RESOLUTION NO. 3572: A Resolution Authorizing The City Of Miles City To Grant An Easement To Landmark Land Company, LLC For A Road Easement For Ingress And Egress Across Airport Land In The Southwest Quarter Of Section 29, Township 8 North, Range 47 East, M.P.M.

** *Councilperson Galbraith moved to approve the Resolution. It died without a second.*

RESOLUTION NO. 3573: A Resolution Authorizing Change Order No. 6 To CMG Construction, Inc. On The Contract For Water System Improvements For Phase 3 Water Main Replacement 20" Transmission Main Dated April 12, 2011

** *Pulled by Mayor*

RESOLUTION NO. 3574: A Resolution Approving A Settlement Agreement With Ahanu Construction, Inc., CMG Construction, Inc., And North American Specialties Insurance Regarding Disputes And Claims On The Contract For Water System Improvements For Phase 3 Water Main Replacement 20" Transmission Main Dated April 12, 2011

And The Claim Upon The Bond Securing Performance Of Such Contract.

** *Pulled by Mayor*

Approval of Mediation Location

** *Councilperson Uden moved to hold the mediations for the four grievances in Miles City instead of Billings, seconded by Councilperson Hollowell.*

Councilperson Ahner referred to the minutes of the Human Resources meeting held on December 4, 2012, and it was voted unanimously that the mediation be held in Miles City.

Mayor Grenz stated there were changes to the mediation. He understands from his correspondence with City Labor Attorney Larry Martin that the mediation will be held at Miles City and it will be closed to the public. It will not include the Human Resource Committee. Mediation will include Council Chairperson Ahner and Human Resource Committee Chairperson Uden, Mr. Martin, the grievant's counsel, the grievant and the mediator. It will be held sometime in January.

Councilperson Andrews stated this was significantly different than what had ever been discussed. In the past the Council was told it would be open to the public, that the Council members could attend, and the lawyers were going to agree on the location, Miles City or Billings. He asked Human Resource Committee Chairperson Uden if that was the way he saw it.

Councilperson Uden stated that was the way it was considered by the Human Resource Committee based on the legal information they had at the time. Since that time, new legal information has come to the attention of Mayor Grenz.

City Attorney Huss explained he was asked who was going to be involved in mediation and he was told the Human Resource Committee. If they were going to be involved, it would need to be a public meeting, since a quorum would be present. Since that time the composition of the mediation committee has been changed so now it is no longer a quorum of a committee or the City Council. Therefore, it does not need to be an open or public meeting.

Councilperson Andrews questioned who has the authority to make that change.

Councilperson Partridge asked why that the only Council members allowed to be present were Councilpersons Ahner and Uden. He is curious if the grievants are agreeable to this. Do they have any choice in this matter? Mayor Grenz explained that Mr. Martin was in contact with the grievants' attorney and this is what they felt was best because, if mediation was going to work, it should be a closed thing. Mayor Grenz asked MMIA if they thought it should be closed, and they agreed. He said if that is what the lawyers want to do, then the City should do it.

City Attorney Huss explained, any mediation that he had been involved in the parties first meet together and set out some ground rules. Then one party goes off in one room and the other party goes off in another room. The mediator goes back and forth between them trying to find some middle ground. If you do it as an open meeting, then the other side that you are mediating with can sit in on your meeting. They hear your strategy and hear what you are

willing to do and not do. It makes it very difficult to mediate with an open meeting. If the two chosen Council members reach an agreement during mediation, it would be conditional upon coming back to the Council to vote on as a whole.

Councilperson Partridge stated that they were two unusual people to ask for. Mayor Grenz said that is who they asked for. Councilperson Partridge asked again if this is who the people wanted. City Clerk Stanton said the grievants had not asked for those two individuals. City Attorney Huss stated that is who Mr. Martin selected.

Councilperson Uden asked if both attorneys had agreed on Miles City for a location. Mayor Grenz said he did not ask.

Councilperson Hollowell asked if the Council needs to take action on who the mediation group is going to be. Whether they chose representatives or chose an open forum. As far as the open forum goes, there can be no quorum of a committee. So the Council could take four individuals from the Council as long as they did not meet a quorum for any Committee. So there would not be a quorum of the Council or a Committee and the mediation could still be closed.

City Attorney Huss reminded the Council that both sides have to agree to location and mediator.

** *The motion then passed unanimously, 8-0.*

Approval of Claims

** *Councilperson Uden moved to approve November claims, seconded by Councilperson Melnik. The motion then passed unanimously, 8-0.*

Letter of Resignation of City Attorney Effective January 4, 2013

** *Councilperson Hollowell moved to accept the resignation of City Attorney Huss, seconded by Councilperson Brush. The motion then passed 5-3, with Councilpersons Hollowell, Andrews and Galbraith voting nay.*

APPOINTMENTS

-None

ADJOURNMENT

** *Councilperson Brush moved to adjourn the meeting, seconded by Councilperson Uden and passed unanimously, 8-0.*

The meeting was adjourned at 8:49 p.m.

C.A. GRENZ, Mayor

Becky Stanton, City Clerk