

# PROCEEDINGS OF CITY COUNCIL MILES CITY, MONTANA

## REGULAR COUNCIL MEETING

April 9, 2013  
7:00 p.m.

### CALL TO ORDER

The Regular Council meeting was held Tuesday, April 9, 2013, in the 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, Mark Ahner, Jerry Partridge, John Uden, Bill Melnik, John Hollowell and Sue Galbraith.

Also present were City Attorney Dan Rice, Grant Administrator Dawn Colton, Public Utilities Director Al Kelm, Fire Chief Dale Berg, and Council Recorder/Deputy City Clerk Connie Watts.

### PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

### APPROVAL OF COUNCIL & COMMITTEE MINUTES

#### **Regular Council Minutes – 3/26/2013**

\*\* *Councilperson Uden moved to approve the minutes of the Regular Council Meeting of March 26, 2013, seconded by Councilperson Brush. The motion passed unanimously, 8-0.*

#### **Public Services Committee Meeting – 03/21/2013**

The **Public Service Committee** met Thursday, March 21, 2013, at 6:00 pm in the City Hall conference room. Present were Committee Chairperson Sue Galbraith and Committee Members Jerry Partridge and Dwayne Andrews. Committee Member John Hollowell was absent. Also present were City Planner Dianna Broadie and Committee Recorder Finance Clerk Becky Stanton.

Chairperson Galbraith called the meeting to order.

#### **1. Discussion of M&L Enterprises for City to create a Special Improvement Construction District (SID) for paving, curb and gutter on Arrowhead Lane**

Chairperson Galbraith opened up the meeting for discussion. Neither, City Attorney Rice or M&L Enterprises' attorney Jim Carr, were present at the meeting.

City Planner Broadie explained she had pulled the statutes for Special Improvement Districts (SID) and noted that there are different methods to assess the SID to the various properties. They are assessed by linear footage of the lots along the street or square footage of the lots. It appears from state statute that the linear foot method may be the only one but she will need to confirm this with City Attorney Rice.

Eric Doeden, M&L Enterprises, explained that they are willing to pay 50% of the costs upfront of the estimated costs of \$148,000 to pave, curb and gutter Arrowhead Lane. Then they would pay 42% of the rest of the costs, \$74,000, by assessing SIDs on the seven lots they wish to develop. The remaining lots owned by the rest of the residents along Arrowhead Drive would pay 58% of the SID amount. He also stated that he had gotten bids from Diamond J Construction and Muggli Construction and they both bid about \$125,000 for paving, curb and

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Enterprises would be responsible for curbs, gutter and paving on the portion of Arrowhead Lane that they intend to develop. The motion was seconded by Councilperson Partridge.

City Planner Broadie explained that conditions of the plat require the applicant to pave the street.

The Public Service Committee agreed to have the City Attorney and Mr. Carr determine how to best handle this situation. Mr. Larson stated that at the last Council meeting it was decided to get both City Attorney Rice and M&L Enterprises' attorney Jim Carr, along with City Planner Broadie, the developers and anyone else who wanted to attend together at a Public Service meeting. They would iron out the legalities and determine the best way to proceed.

Sue Stanton, 317 Arrowhead Drive, said that she understood from the September 11, 2012, Council meeting that everything had been decided. Then it changed. She received a letter stating that the residents would be responsible for half of the paving costs and then received another letter stating something else. It seems to be a moving target. The residents' lives will be dramatically affected.

Eric Doeden of M&L Enterprises agreed to contact both attorneys and ask them to work out the details. He will let the Committee know when the attorneys will be ready to meet with them.

### 2. Request of Citizens

There were no requests of citizens.

### 5. ADJOURNMENT

\*\* Having no further business, *Committee Member Andrews moved to adjourn the meeting, seconded by Committee Member Partridge and passed unanimously, 3-0.*

The meeting was adjourned at 6:29 p.m.

\*\* *Councilperson Galbraith moved to approve the minutes of the Public Services Committee Meeting of March 21, 2013, seconded by Councilperson Melnik and passed unanimously.*

## Public Services Committee Meeting – 04/03/2013

The **Public Service Committee** met Wednesday, April 3, 2013, at 6:00 pm in the City Hall conference room. Present were Committee Chairperson Sue Galbraith and Committee Members Jerry Partridge, Dwayne Andrews and John Hollowell. Also present were Mayor C.A. Grenz, City Planner Dianna Broadie, Grant Administrator Dawn Colton, Public Utilities Director Allen Kelm and Committee Recorder/Deputy City Clerk Connie Watts.

Chairperson Galbraith called the meeting to order.

### 3. Request by Miles and Keeli Muscha for Fence Encroachment at 1001 S. Strevell Avenue

The Committee members had received copies of Mr. Muscha's proposal for a fence encroachment on a City easement, along with photographs and a diagram of the property. Mr. Muscha explained that their home sits on the corner of Tompy and Strevell, which is a busy traffic area. As they have two small children, they would like to build a 6' board fence along these streets for purposes of security and privacy. They are asking for permission to place the fence approximately 5' north of their property line, which will leave enough space for a 6' sidewalk beside the fence, in the event they would wish to install one in the future.

City Planner Broadie read from City's Zoning Code, which indicated a six-foot solid fence is visually obstructive. She felt that if the fence were to be see-through, that would fix the problem.

It was determined that there would be no line-of-sight problems, as long as the fence would drop from 6 feet to 36 inches at 25 feet of the property line west of Strevell. After further discussion,

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Administrator Colton had prepared a chart of CTEP allocations vs obligations as of April 3, 2013. Custer County has agreed to combine its CTEP money with the City's. Prior 2009 allocations, which must be obligated to projects by September 15, 2013, now amount to a combined total of \$379,856.44.

The Montana Department of Transportation's (MDOT's) Tatro Street Project has been identified by the City as its priority to use the CTEP money. The cost of that project is \$372,118. That leaves a total of \$7,738.44 in pre-2009 CTEP dollars that must be obligated by September 15, 2013.

Administrator Colton had also supplied a spreadsheet setting out project ideas and costs that had been submitted by various individuals.

Committee Member Andrews expressed concern about the sidewalk over the Ivy Street railroad crossing on Montana St., and said he felt the repair on that crossing should be high up on the priority list. It was determined that Transco Railway Products would have to be contacted for permission to repair that crossing. The item entitled "Montana Ave Sidewalks," from Lincoln to Bender Park, was then amended to include the Milwaukee Railroad crossing and sidewalks from Ivy to Gordon Streets.

Director Kelm said he had received some comments from Kiwanis members who would like to see sidewalks constructed across Wibaux Park from Strevell to the "apron" at the wading pool and then to the shelter. If connected to the street/sidewalk, CTEP funds could be used. The VA also would like to see a sidewalk from Cale across the park to the shelter. Although the park is directly across the street from the VA Hospital, it is not possible to utilize the shelter for handicapped and/or veterans because of the lack of handicapped access.

It was suggested that, instead of using the Strevell Street side of the park, the Cale side be used. Moving the access sidewalk would also encourage traffic to move from Strevell over to Cale, which would help with relieving traffic congestion on Strevell.

The Committee, while prioritizing the projects, combined the Historic Preservation for Main Street with the Beautification of the West End Entrance into one item. This plan would move existing lights out toward Ft. Keogh, and replace those with old fashioned lights at the entrance to the City. It was mentioned that extending lighting out toward Ft. Keogh would require creating a new lighting district.

Director Kelm said there is a \$300,000 Urban Preservation Project coming up, which will be discussed April 12<sup>th</sup> at the MDOT office. From the railroad tracks at 8<sup>th</sup> Street down to Stower Street, past Highland Park School to the empty field where the asphalt ends at Sewell. The City will have to replace about one block of concrete street before that project can go forward, as the current street is in such disrepair.

The City has just become involved with Urban Preservation last year. Public Service Foreman Scott Gray rated all the urban routes in the City. State officials then met with Foreman Gray and Director Kelm and reviewed the suggested projects. The State chose the 8<sup>th</sup> Street crossing all the way down to Sewell Street. There is no match, but the City does have to replace that one city block before the project can move forward.

Committee Member Hollowell cautioned against spending everything just because it might be available, and holding some in reserve.

The Committee then prioritized the projects, as follows:

1. Montana Avenue Sidewalks from Lincoln to Bender Park and the Milwaukee Railroad crossing from Ivy to Gordon
2. Milwaukee Street Sidewalks (to be done in conjunction with the Tatro Street Project)
3. Wibaux Park: ADA sidewalks to Strevell (or Cale)
4. Riverside Park, Phase II
5. Historic Preservation for Main Street & Beautification of West End Entrance

\*\* *Committee Member Partridge moved to recommend to the Council to prioritize the projects in the order set forth above, and complete them as funds become available. The motion was seconded by Committee Member Hollowell and passed unanimously, 4-0.*

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- \*\* *Councilperson Galbraith moved to approve the minutes of the Public Services Committee Meeting of April 3, 2013, with a correction. The motion was seconded by Councilperson Hollowell and passed unanimously.*

## SCHEDULE MEETINGS

**Finance Committee** – Wednesday, April 10 @ 6:00 pm  
**Flood Control Committee** – Thursday, April 11 @ 6:00 pm  
**Planning Board** – Tuesday, April 16 @ 6:00 pm  
**Public Safety Committee** – Wednesday, April 24 @ 6:00 pm

## REQUEST OF CITIZENS & PUBLIC COMMENT

-None

## APPOINTMENTS

-None

## PROCLAMATIONS

**CNADA: Declaring April, 2013, Sexual Assault Awareness Month**  
Mayor Grenz read the proclamation to the Council.

## STAFF REPORTS

### **Public Utilities Director Al Kelm**

*Strevell Street Project:* Everything is ready to begin excavation at Strevell and Comstock. There will be some temporary water outages there tomorrow.

*Wastewater Plant Project:* Bricklaying for the effluent building will begin shortly and the Haynes Avenue Lift Station now has a new roof.

*Swimming Pool Roof:* Has received two quotes for the roof. Thirty-one letters were sent out, only two responses were received. Councilperson Ahner noted that \$15,000 has been allocated for this project through the Capital Improvement Program.

*Riverside Park:* Noted the sewer line is in for the new restrooms and hooked up to the lift station, the water line is in and the electrical lines have been trenched in. The pathway is staked out and the concrete work will begin immediately.

## CITY COUNCIL COMMENTS

### **Dwayne Andrews:**

*Safe Route to School Funding* – half has been received. A letter from the Department of Transportation was received by Tara Andrews, County Agent, committing to provide the remaining funds of \$116,000. Phase I and Phase II will be done at the same time.

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### **Mark Ahner:**

*Municipal Elected Officials workshops* – Billings, May 8-10. Two spots were budgeted for this year out of the Council's budget. City Attorney Rice said he has already registered to attend.

### **Roxanna Brush:**

*Community Service Group* – This is the last night they are required to attend the council meeting; she handed out "certificates of completion" to each individual.

### **John Hollowell:**

*Flood Ordinance* – When asked who is working on this ordinance, Attorney Rice noted that Deputy Attorney Erica Griffith has been drafting it. Some of the language is being revamped by the State.

*Western Municipal work on Strevell* – He has received comments from citizens living on Strevell directly in front of the construction work – people are extremely pleased with the politeness and cleanliness of the workers. They are also pleased with the progress of the project. Councilperson Ahner said he has heard similar comments.

### **John Uden:**

*Buildings on Railroad Right-of-Way*: Mentioned that some of the old buildings on the railroad right-of-way and one by the old Redi-mix Plant, are dangerous, a fire hazard, and are a breeding ground for pigeons and other varmints. One, he said, caught on fire just the other night. They also are an attraction for transients and children, and he would like to see something done about it.

### **Councilperson Partridge:**

*Old Buildings* – He agrees with Councilperson Uden, and asked Director Kelm who owns them. Director Kelm said he will do some checking and get back to the Council.

## **MAYOR COMMENTS**

*Wastewater Treatment Plant*: Has received some complaints about the smell and asked Director Kelm if there was anything that could be done. Director Kelm said that this is a problem every spring. He has consulted with Dave Harris, waste-water plant supervisor, and more enzymes will be added. The upgrade being considered would go a long way to reduce this problem.

*Public Nuisance on 603 S. Fourth*: The owner has promised to clean it up by the first of May. Mayor Grenz said he would file a complaint if this is not done by that time.

*Other Public Nuisances*: Councilperson Galbraith mentioned the home on Comstock that is also in poor shape. Councilperson Hollowell said he has investigated that, and it has been condemned by Building Inspector Hirsch. Director Kelm said it has been posted and, therefore, the timeline has started.

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### BID AWARDS

-None

### BID OPENING

-None

### NEW BUSINESS

#### **RESOLUTION 3587: A Resolution Approving a Real Property Lease Agreement Between the City of Miles City and Greg and Alice Kmetz, Located Within the Industrial Site Owned by Miles City, Montana**

**\*\*** *Councilperson Ahner moved to approve Resolution 3587, read by title only, and subject to the correction set out below. The motion was seconded by Councilperson Uden.*

Councilperson Ahner noted a correction that should be made in the resolution: The final paragraph should be amended from "...a duly constituted quorum..." to "...an affirmative vote of 2/3 of the membership of the City Council of the City of Miles City." Attorney Rice said that this is a valid correction that needs to be made.

*On roll call vote, Councilperson Ahner's motion passed 7 to 1, with Councilperson Hollowell voting no.*

Councilperson Hollowell wanted to explain his "no" vote on this Resolution both in the Public Service Committee and this Council Meeting. He felt the City had already made a commitment to lease the property to another individual during the last administration, and felt the Council should stand by this commitment.

#### **Approval of March Claims**

**\*\*** *Councilperson Uden moved to approve the March claims, as presented, seconded by Councilperson Melnik.. After discussion and on roll call vote, the motion passed by unanimous consent, 8-0.*

#### **Recommendation from Public Services Committee: Approval of Fence Encroachment at 1001 S. Strevell Ave.**

**\*\*** *Councilperson Andrews moved to approve the fence encroachment as approved by the Public Services Committee, seconded by Councilperson Galbraith. After brief discussion, the motion passed by unanimous consent, 8-0.*

#### **Recommendation from Public Services Committee: Prioritization of CTEP Projects**

**\*\*** *Councilperson Galbraith moved to approve the recommendation from the Public Services Committee, subject to a change as follows: The*

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allocated. The next week, however, she learned that it had not and, therefore, needed to be on the list of future CTEP projects. Councilperson Galbraith also explained to the Council the "CTEP Allocations/Obligations as of 4/3/2013" that was included in the Council packet along with the CTEP project prioritization sheet.

Mayor Grenz mentioned the Urban Preservation program. Director Kelm explained those are all state funds; the City will not have to contribute any match. In 2014, the City of Miles City is slated for that project. It will start on 8th Street in front of the City shop, then down Stower to where the concrete ends between Strevell and Stacy. From there the street from the Kosty property to Haynes Avenue will have to be rebuilt. He does not think CTEP funds can be used for this, but he will check.

Councilperson Ahner noted that the Historical Preservation Officer had mentioned the possibility of using CTEP funds for historical buildings. He also asked if CTEP funds could be used for quiet zones around railroads. Director Kelm said the railroad would want the signal equipment moved to the opposite side of the existing sidetrack. They would also want the newest signal equipment installed, which would all be the responsibility of the City. Curb, gutter and sidewalks over the track could possibly qualify for CTEP funds.

Councilperson Hollowell cautioned against doing more projects than the City has the match for.

*\*\* On roll call vote, Councilperson Galbraith's motion was unanimously approved, 8-0.*

### **Fourth of July Parade**

Scott Elder, of the Fourth of July Parade Committee, noted that this is the 10<sup>th</sup> anniversary of the parade. He said they are once again requesting permission for this event (Thursday, July 4<sup>th</sup>) with two police officers, front and back, to escort the parade. He asked that the City pay for the liability insurance, as was also done last year. They would also like to put up "no parking" signs as was done last year, and pick them up at 8:00 a.m. from the City shop. They are asking the National Guard Unit to be the "Grand Marshall," but have not heard back from them yet. He asked that, since Main Street is a State highway, whether permission would also have to be obtained from the State. He thinks the City contacts the Highway Department for a permit.

Councilperson Uden expressed concern about children running out in the street for candy that is thrown from the parade participants. Mary Elizabeth Irion, also on the Parade Committee, stated they have parade marshals riding bicycles up and down each side of the street during the parade to keep people back on the sidewalks.

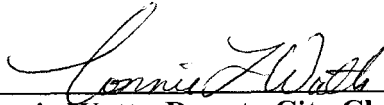
*\*\* Councilperson Howell moved to recommend that the City pay for the special event liability insurance, seconded by Councilperson Uden and passed unanimously, 8-0.*

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The meeting was adjourned at 8:05 p.m.



C.A. GRENZ, Mayor



Connie Watts, Deputy City Clerk