

PROCEEDINGS OF CITY COUNCIL MILES CITY, MONTANA

REGULAR COUNCIL MEETING July 8, 2014 CALL TO ORDER 7:00 p.m.

The Regular Council meeting was held Tuesday, July 8, 2014, 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 Roxanna Brush, Mark Ahner, Dwayne Andrews, Ken Gardner, Susanne Galbraith, Sheena Martin, John Hollowell and Jerry Partridge.

Also present were Police Chief Doug Colombik, Public Works Director Scott Gray, Public Utilities Director Al Kelm, Historic Preservation Officer Connie Mugli, Interim Fire Chief/Battalion Chief Scott Moore, City Clerk Lorrie Pearce and Deputy City Clerk/Minute Recorder Connie Watts.

PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 6/24/2014

****** *Councilperson Brush moved to approve the minutes of the Regular Council Meeting of June 24, 2014, seconded by Councilperson Gardner and passed unanimously, 8-0.*

Public Safety Committee Meeting: 7/1/14

Public Safety Committee Meeting July 1, 2014

The Public Safety Committee met Tuesday, July 1, 2014, at 6:00 pm in the City Hall Conference Room. Present were Committee Members Sue Galbraith, Jerry Partridge, Roxanna Brush and Mark Ahner. Also present were Mayor C.A. Grenz, Police Captain Mark Reddick and Committee Recorder/Deputy City Clerk Connie Watts.

Committee Member Ahner brought the meeting to order.

ELECTION OF CHAIRPERSON

Committee Member Ahner opened the floor for nominations.

****** *Committee Member Galbraith moved to nominate Committee Member Ahner for chairperson, seconded by Committee Member Brush.*

Committee Member Ahner asked for other nominations; there were none.

****** *Committee Member Galbraith moved the nominations cease, seconded by Committee Member Brush. The motion passed by unanimous consent.*

***** *Committee Member Galbraith's motion to nominate Committee Member Ahner then passed unanimously.*

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REQUESTS OF CITIZENS

Mayor Grenz noted that there are some intersections in town where the view is obstructed by trees and/or bushes. Chairperson Ahner said he would address that at the next meeting.

REVIEW OF ORDINANCE NO. 1274: An Ordinance Enacting A New Section 22-151 Of The Code Of Ordinances Of The City Of Miles City, Entitled "Refusal To Submit To Alcohol/Drug Breath And/Or Blood Test"

Captain Reddick said the City has seen a significant increase in DUI's, resulting in an increase in costs to the City for conducting blood tests at a medical facility when the individual refuses to provide a breath and/or blood test. It takes 4 to 5 hours to obtain search warrants, process the DUI and prepare for court, as well as the actual time spent in court (minimum of two hours overtime.)

Regarding questions about whether the Breathalyzer is frequently broken down, he noted that the Intoxilyzer used by the Department is extremely accurate and has never "broken down." Although he admitted there have been some legal challenges, it has always held up scientifically.

Chairperson Ahner noted the proposed ordinance allows the judge no discretion in suspending, waiving or deferring the fines. He wondered how Judge Homme felt about this and whether it was unusual language.

Captain Reddick said the ordinance was almost an exact match of the ordinance in Missoula, and City Attorney Rice had approved it before it was submitted to the Council and the Public Safety Committee. He will, however, visit with the Judge about it before the next Council meeting.

Committee Member Brush wondered whether the fine of \$300 actually covers the City's costs, and whether it should be higher. After discussion, the Committee decided that, with the fine of \$685 for a DUI conviction and the \$300 fine in this ordinance, it should be sufficient. Captain Reddick said he will monitor the costs and request a review if he feels it is necessary.

****** *Committee Member Galbraith moved to recommend to the Council adoption of Ordinance No. 1274, seconded by Committee Member Partridge and, on roll call vote, passed unanimously, 4-0.*

ADJOURNMENT

****** Having no more business to come before the Committee, *Committee Member Brush moved to adjourn the meeting, seconded by Committee Member Partridge and passed unanimously, 4-0.* The meeting was adjourned at 6:30 p.m.

****** *Councilperson Galbraith moved to approve the minutes of the Finance Committee Meeting of July 1, 2014, seconded by Councilperson Partridge and passed unanimously, 8-0.*

SCHEDULE MEETINGS

- Budget Meetings: 6:00 on Wednesday, Thursday and Friday, July 9, 10 & 11
- Public Services Meeting: 5:30, Wednesday, July 9
- Planning Board Meeting: 6:00, Tuesday, July 15

REQUEST OF CITIZENS & PUBLIC COMMENT

Alex Burkhalter, Founder of Housing Solutions, LLC, from Missoula, MT

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Mr. Burkhalter explained that his company has purchased the property directly behind Albertsons, with the intention of building an affordable housing rental complex for families. Named the Stower Commons, the rentals will consist of 30 one, two and three bedroom apartments with covered parking at a reasonable price. Renters will need to be at or below the 60% AMI (area median income) to qualify.

The way this will be done is with Housing Tax Credits, a Federal Program enacted in 1986. 90% of new affordable rental housing is created with HTC's. The HTC's provide assistance with construction and development costs, and is successful as a public/private partnership. The housing is NOT a rental assistance program. By creating tax incentives for investors, equity is increased and debt is lowered. Lower debt servicing allows for lower rents.

The program is administered by the Montana Board of Housing, a 7-person board designated by the IRS and appointed by the Governor to administer the program.

The last HTC awarded to Miles City was in 2006 – the Cornerstone Apartments -- and there has never been a new construction HTC award in Miles City. Mr. Burkhalter thinks we have a very good chance of receiving these tax credits from the Montana Board of Housing. He requested a letter of support from the City documenting the need for affordable housing in Miles City. Another way the City could show support is by donating the building permit fees.

The Council expressed its support. Councilperson Ahner noted that area will have to be re-zoned, as he thinks it is agricultural right now. Mr. Burkhalter said that would not need to be started until they receive a decision from the Montana Board of Housing.

Housing Solutions LLC's letter of intent was submitted in April, and the complete application is due August 25. Projects will be selected by the Board by November 17th; construction could begin as early as April, 2015, with construction completed by March, 2016.

Mike Coryell, Executive Director, Miles City Economic Development Council

Mr. Coryell gave an update to the Council on a few projects that they have been working on for the last four or five years.

- Rural Improvement District (RID) #1 Sewer Line was funded and put in; the notice of substantial completion will be July 15 (a month ahead of time).
- Valley Drive East Water Line Project – easements are in place, the title opinion is done and approved by EDA, and the construction date is on target, with the opening of bids scheduled for July 30. The Valley Drive East Water Line will be completed soon.
- The Detention Center is right on target.

APPOINTMENTS

None

PROCLAMATIONS

None

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STAFF REPORTS

Al Kelm, Public Utilities Director

- Reported there was a water break on Tompy and Cale at about 3:00 this afternoon. City crews are over there right now working on it.

Lorrie Pearce, City Clerk

- Noted that City Hall's 100th year is this year, and there will be a centennial celebration on the afternoon of September 12th. City Hall staff is planning on wearing period costumes, furnishing refreshments, conducting tours of City Hall, etc. She said any ideas are welcome.

CITY COUNCIL COMMENTS

Mark Ahner

- On behalf of the Fourth of July Committee: Thanked the City for all the services it provided, including the events insurance for the 4th of July activities. Public Works and Parks employees helped immensely, Councilperson Martin gave the welcoming address, and the Police Department did a great job working with them on the parade route. It turned out very well. Any recommendations to improve the activities would be welcome. This is a new committee comprised of the American Legion, the VFW and the Marine Corps League.

Susanne Galbraith

- Commended Janelle Grant and the Keep Miles City Beautiful Committee for all their work around the Community, including the new park they are working on by Pine Hills.

Roxanna Brush

- Asked if people collected their trash better after shooting off fireworks this year at Bender Park. Director Gray said he hasn't heard any complaints. Director Kelm had gone down to the area after the Fourth, and he thought it looked very good. The garbage cans were full and there was a lot of trash piled around the garbage cans instead of just being left on the ground. He felt the public should get an att-a-boy for their efforts.

MAYOR COMMENTS

None

STANDING COMMITTEE RECOMMENDATIONS

None

BID OPENING

None

BID AWARDS

None

PUBLIC HEARINGS

- A. **ORDINANCE NO. 1273:** An Ordinance Enacting A New Section 20-11 Of The Code Of Ordinances Of The City Of Miles City, Entitled "Maintenance Of Public Right Of Way"

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

B. ORDINANCE NO. 1274: An Ordinance Enacting A New Section 22-151 Of The Code Of Ordinances Of the City Of Miles City, Entitled “Refusal To Submit To Alcohol/Drug Breath And/Or Blood Test”

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

C. RESOLUTION NO. 3697: A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2013-2014 For State Of Montana Payments On Behalf Of Retirement Accounts And Providing For Hearing Thereon

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

UNFINISHED BUSINESS

A. Council decision on Zoning Committee's recommendation to deny rezoning on behalf of Diamond J Construction, LLC, on property located at 722 Hwy 59 South, Tract "B," from Agriculture (AG) to General Commercial (GC)

****** *Councilperson Ahner moved for approval of the Zoning Committee's recommendation to deny rezoning and, further, moved that the Council adopt the Opponents Proposed Findings and Facts and Conclusions of Law, as provided in the packet and found immediately after Resolution 3697. Councilperson Partridge seconded the motion.*

Mayor Grenz: Noted that the public hearing is over, and this is only for Council discussion and comments. He also said that anyone who has had a discussion with any of the proponents or opponents should make that known at this time. Mayor Grenz said he has had a conversation with Mr. Fred Wacker, a proponent of the rezone.

Councilperson Ahner: Said that he has had a discussion with Mr. Wacker, also.

Councilperson Brush: Gave a brief history of public control over land development, and said she feels this property does follow the growth policy because going south with growth is one of the options listed in the policy. She still has an issue with the condition of Mr. Peila's property on Truscott, but she has been approached by many people in support of Mr. Peila. Because she would like to improve relations with developers, she is changing her mind and voting in favor of the zone change.

Councilperson Martin: Understands that spot zoning is not an option, but she wants to see economic growth and she asked everyone to think about how feasible it might be to annex as much property as possible along Highway 59 and zone it as commercial to help grow the City's economy and also help Diamond J's cause as well.

Councilperson Ahner: Agrees with Councilperson Martin, and feels it might also enhance property values. He noted, however, that annexation is not the issue before the Council right now, but only a rezone.

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Councilperson Martin: Agreed, but said that doesn't mean other solutions could not be considered.

Councilperson Hollowell: Had two concerns – the City has recently put into place policies to prevent people from building before addressing issues and feels those policies should be followed. Also, he wanted to defend City staff, because supporters of Mr. Peila were saying all sorts of permits were issued without the City advising Mr. Peila of the zoning issues. Although mistakes certainly happen, he is not convinced the City would miss zoning, the number one consideration when looking at a new construction project.

Councilperson Partridge: Agreed with Councilperson Hollowell – if you don't plan, you create chaos.

Councilperson Gardner: Had been contacted by three different business owners since the last meeting voicing their objection to the rezone. If annexation is an option, maybe it should be considered. However, there is a lot of opposition from the landowners in that area. He feels they should have a say about what is being built next to them, and rules need to be followed. He cannot vote for the rezone at this time.

Councilperson Andrews: Said he is going to support the rezone. He acknowledged that Mr. Peila has made mistakes, and has put a lot of money in it already. He feels the Council should try to help developers which would, in turn, help the City of Miles City.

Councilperson Hollowell: Asked if, because he is somewhat a competitor to Mr. Peila, there would be a conflict for him to vote. The Council and Mayor felt there was no conflict.

****** *Councilperson Ahner then called for the question. On roll call vote, the motion to call for the question passed unanimously, 8-0.*

***** *On Councilperson Ahner's motion to approve the Zoning Commission's recommendation to deny the rezoning, the motion passed 5 to 3, with Councilpersons Gardner, Brush and Andrews voting no.*

B. ORDINANCE NO. 1273 (Second Reading) An Ordinance Enacting A New Section 20-11 Of The Code Of Ordinances Of The City Of Miles City, Entitled "Maintenance Of Public Right Of Way"

****** *Councilperson Galbraith moved to approve Ordinance No. 1273, read by title only and seconded by Councilperson Gardner. On roll call vote, the motion passed by unanimous consent, 8-0. Ordinance No. 1273 was adopted.*

C. ORDINANCE NO. 1274: (Second Reading) An Ordinance Enacting A New Section 22-151 Of The Code Of Ordinances Of The City Of Miles City, Entitled "Refusal To Submit To Alcohol/Drug Breath And/Or Blood Test"

****** *Councilperson Hollowell moved to approve Ordinance No. 1274, read by title only and seconded by Councilperson Galbraith. On roll call vote, the motion passed by unanimous consent, 8-0. Ordinance No. 1274 was adopted.*

D. RESOLUTION NO. 3697: (Second Reading) A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing

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Amendment Of Final Budget For FY 2013-2014 For State Of Montana Payments On Behalf Of Retirement Accounts And Providing For Hearing Thereon

****** *Councilperson Brush moved to approve Resolution No. 3697, read by title only and seconded by Councilperson Gardner. On roll call vote, the motion passed by unanimous consent, 8-0. **Resolution No. 3697 was adopted.***

E. **RESOLUTION NO. 3700:** A Resolution Authorizing The Outlaw Baseball Club To Place A Concrete Monument At Tedesco Field In Honor Of The Tedesco Family And Sponsors Of Tedesco Field

****** *Councilperson Galbraith moved to approve Resolution No. 3700, read by title only and seconded by Councilperson Ahner. After brief discussion and on roll call vote, the motion passed by unanimous consent, 8-0. **Resolution No. 3700 was adopted.***

NEW BUSINESS

A. **ORDINANCE NO. 1272: (First Reading)** An Ordinance Enacting Section 17-114 Of The City Code Of The City Of Miles City, Montana, So As To Require Liability Insurance In Specified Amounts Prior To Issuance Of A Park Use Permit

****** *Councilperson Ahner moved to adopt Ordinance 1272 on first reading and read by title only. The motion was seconded by Councilperson Gardner. After brief discussion and on roll call vote, the motion passed by unanimous consent, 8-0. **The Ordinance was referred to the Finance Committee.***

B. **RESOLUTION NO. 3678:** A Resolution Authorizing The City Of Miles City, Montana To Enter Into A Memorandum Of Understanding With Miles Community College For The Use Of Equipment And Facilities For Student Training And Community And Local Government Project Completion

****** *Councilperson Galbraith moved to adopt Resolution No. 3678, read by title only and seconded by Councilperson Gardner. After brief discussion and on roll call vote, the motion passed by unanimous consent, 8-0. **Resolution No. 3678 was adopted.***

C. **RESOLUTION NO. 3703:** A Resolution Authorizing The City Of Miles City To Enter Into A Construction Contract With Century Companies, Inc., A Montana Corporation, For Paving In Maintenance Districts 204 And 205

****** *Councilperson Galbraith moved to adopt Resolution No. 3703, read by title only and seconded by Councilperson Gardner. After brief discussion and on roll call vote, the motion passed by unanimous consent, 8-0. **Resolution No. 3703 was adopted.***

D. **RESOLUTION NO. 3704:** A Resolution Authorizing The City Of Miles City To Enter Into A Construction Contract With Century Companies, Inc., A Montana Corporation, For Replacement Of Curb, Gutter, Sidewalks And ADA Ramps At Triangle Park

****** *Councilperson Galbraith moved to adopt Resolution No. 3704, read by title only and seconded by Councilperson Brush. After brief discussion*

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*and on roll call vote, the motion passed by unanimous consent, 8-0.
Resolution No. 3704 was adopted.*

E. RESOLUTION NO. 3705: A Resolution Declaring The City Council Intent To Create A Miles City Downtown Urban Renewal District With Tax Increment Authority; Declaring The Existence Of Blight Within The Miles City Downtown Urban Renewal Area

****** *Councilperson Gardner moved to adopt Resolution No. 3705, read by title only and seconded by Councilperson Hollowell.*

Councilperson Ahner noted that the map is significantly expanded compared to the original proposal.

HPO Mugli explained that grants were originally written with the language that the boundaries would include, “at a minimum,” the historic downtown. After comments and suggestions received by the public, council members and additional research, Mr. Zeier and HPO Mugli felt there were sound economic reasons for the expansion. She said this is a flexible document, which can be changed until the final adoption.

Councilperson Ahner felt that although the expanded boundaries would contribute to more funds for the District, he was concerned that it may also have the effect of diluting projects on Main Street in favor of projects in the expanded areas.

Mr. Zeier responded that the distribution and prioritization of the TIFD funds is entirely up to the Council, and will also be addressed during the planning process. An advisory/steering committee will be established to field proposals from investors, but the final decision is always up to the Council.

***** *On roll call vote, Councilperson Gardner’s motion to adopt the Resolution passed by unanimous consent, 8-0. **Resolution No. 3705 was adopted.***

F. RESOLUTION NO. 3707: A Resolution Authorizing The City Of Miles City To Enter Into A Contract For Attorney Services With W. G. Gilbert, III, P.C., A Montana Professional Corporation, For Special Legal Services Related To Montana Water Court Case No. 42c-184

****** *Councilperson Ahner moved to defer consideration of Resolution No. 3707 to the next Council meeting.*

Councilperson Ahner said he wanted to defer it because he has no idea what it is about.

Director Kelm explained that the Bureau of Indian Affairs (BIA) has alleged that the City needs only one-seventh of the water it is authorized to take from the Tongue River. He said all holders of water rights along the Tongue River are currently being forced to defend their water rights. This issue has been pending for a number of years.

Attorney Dan Rice recently received a letter that the issue is going to court the latter part of July or first part of August. He explained that water court is a very specialized area of law and Attorney Rice, after diligent research, has recommended Attorney W. G. Gilbert, III, to represent the City in this matter.

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Councilperson Ahner was uncomfortable with the number of attorneys the City currently employs, where to get the money to pay for it, as well as his feeling that the contract was “open-ended.”

- * *Councilperson Brush then seconded Councilperson Ahner's motion and, on roll call vote, the motion passed by unanimous consent, 8-0. Resolution 3707 was deferred until the next meeting.*

ADJOURNMENT.

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

The meeting was adjourned at 8:50 p.m.


C.A. Grenz, Mayor


Lorrie Pearce
City Clerk