

PROCEEDINGS OF CITY COUNCIL MILES CITY, MONTANA

REGULAR COUNCIL MEETING December 22, 2015 7:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, December 22, 2015, 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 Ken Gardner, Rachel Sloan, Susanne Galbraith, John Hollowell, Roxanna Brush and Mark Ahner. Councilpersons Jerry Partridge and Dwayne Andrews were excused.

Also present were City Attorney Dan Rice, Police Chief Doug Colombik, Public Utilities Director Allen Kelm, Fire Chief Gary Warren, Grant Writer/Planner in Training Dawn Colton and City Clerk/Minute Recorder Lorrie Pearce.

PLEDGE OF ALLEGIANCE

Mayor Grenz led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 12/08/2015

** *Councilperson Galbraith moved to approve the minutes of the Regular Council Meeting of December 08, 2015, and seconded by Councilperson Gardner. The motion passed by unanimous consent, 6-0.*

Finance Committee Meeting Minutes: 12/3/2015

Finance Committee Meeting December 3, 2015

The Finance Committee met Thursday, December 3, 2015 at 6:00 p.m. in the City Hall Conference Room. Present were Committee Chairperson Susanne Galbraith and Committee Members Rachel Sloan, Dwayne Andrews and John Hollowell.

Also present were Grant Administrator Dawn Colton, Public Utilities Director Allen Kelm and Committee Recorder/City Clerk Lorrie Pearce.

Jerry Singleton, leaser of City property and owner of truck washing operations was also present.

Committee Chairperson Galbraith called the meeting to order.

1. Request of Citizens:

-None.

2. Review and Recommendation on Resolution No. 3870: A Resolution Releasing Requirement of Certain Lease Agreements Pertaining to City of Miles City Property Leased by Jerry Singleton and Allowing Truck Washing Operations

** *Committee Member Hollowell moved to recommend to Council to approve the Resolution. The motion was seconded by Chairperson Galbraith.*

Director Kelm explained that the truck washing operation cleans out stock trailers in an area around the livestock center. There was a breach in the backside of the berm and the product ran out into Mr. Boughton's property.

Jerry Singleton explained that his operation had gotten out of hand. He

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apologized for the results and said that he will keep on top of the operation in the future. Mr. Singleton explained that they have fixed the berm by building the flat area up by four feet, will keep up on the maintenance and plant trees for uptake of water. He added the income from the sale yard is 25% of his business and would like to continue with the service.

Director Kelim recommended that Mr. Singleton continue with his truck washing operation because if the operation would be shut down, all the trucks would probably go to the car or truck wash, which would mean the water would go to the waste water treatment plant. He added that the waste water treatment plant is not built to take in that kind of waste.

*** Chairperson Galbraith moved to amend the original motion to include in the lease under item number two "Tennant will clean pond and reclaim property at the end of said lease. The motion was second by Committee Member Sloan, and passed 4-0.*

*** Committee Member Hollowell's original motion passed 4-0*

3. Review and recommendation on Resolution No. 3869: A Resolution Approving the Landlord's Release Agreement Between the City of Miles City, SJ & TJ Properties LLC, and the City of Miles City, Pertaining to Personal Property and Fixtures Located on City Owned Property

Chairperson Galbraith explained the resolution is for the Stevenson property who is trying to receive a loan for improvements. If approved, it would place the bank in first position for the building in case the building needed to be sold for collateral.

*** Committee Member Hollowell moved to recommend to Council approval of the Resolution. The motion was seconded by Committee Member Sloan. The motion passed 4-0*

4. Review and Recommendation on Annexation Plan

*** Committee Member Hollowell moved to pass the Annexation Plan including changes in red provided by staff. The motion was seconded by Chairperson Galbraith. The motion passed 4-0*

5. Review and Recommendation on Purchase of Truck for Utility Department

Director Kelim presented three bids for a 2016 two wheel drive truck. After a short discussion, the Committee wanted Director Kelim to go back to the truck dealers and received bids for a 2015 four wheel drive truck.

*** Committee Member Hollowell moved to postpone the recommendation until further information is presented. The motion was seconded by Chairperson Galbraith. The motion passed 4-0*

6. Review and Recommendation on Singleton Truck Wash

No action - on agenda twice.

7. Recommendation on General Fund Capital Improvement Fund

*** Committee Member Hollowell moved to recommend to Council a resolution to build up the general fund capital improvement fund by transferring up to \$100,000 of cash carryover until \$250,000 is reached. After the \$250,000 is reached, any increase needed would be approved by Council. The motion was seconded by Committee Member Sloan. The motion passed 4-0*

8. Adjournment

*** Committee Member Hollowell moved to adjourn the meeting, seconded by Committee Member Sloan and passed unanimously, 4-0.*

The meeting was adjourned at 6:45 p.m.

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** Councilperson Galbraith moved to approve the minutes of the Finance Committee Meeting of December 3, 2015, and seconded by Councilperson Hollowell. The motion **passed** by unanimous consent, 6-0.

Special Council Meeting Minutes: 12/11/15

** Councilperson Gardner moved to approve the minutes of the Special Council Meeting of December 11, 2015, and seconded by Councilperson Galbraith. The motion **passed** by unanimous consent, 6-0.

SCHEDULE MEETINGS

Swearing in new elected officials 12/31/2015 @ 10am

REQUEST OF CITIZENS & PUBLIC COMMENT

Attorney for Custer County Water Sewer District, Gary Ryder said a letter had been sent to the City asking to start negotiations. He hoped that the process could start soon.

Mervin Meidinger, 1210 North Prairie asked why the sewer rates were going up and explained he was on social security and felt he was being taxed to death.

APPOINTMENTS

None

PROCLAMATIONS

None

STAFF REPORTS

Chief Colombik read the news release on Ed Martin's case. He added that all police officers, investigators, sheriffs, dispatchers and anyone else involved in the situation had worked around the clock, never quit or gave up and did a fantastic job.

CITY COUNCIL COMMENTS

Councilperson Brush, Ahner, and Hollowell thanked the Mayor and all leaving Councilpersons for their services. Clerk Pearce read a memo from Councilperson Andrews, thanking Mayor Grenz and Councilpersons Ahner, Brush and Partridge for their services. Councilperson Ahner thanked the employees of the City of Miles City and said they do a wonderful job by fixing things in the middle of a cold night and the staff is very professional and do an excellent job. He added advice to the new council.

- Pay attention to details- contracts/leases
- Avoid conflict of interest
- Watch out for all tax payers, don't tone out smaller voices
- Don't advocate your responsibly as a Council person, don't relegate a decision to the point where they become policy to staff members, mayor or legal council

MAYOR COMMENTS

Mayor Grenz thanked the Council for their service and gave newly elected Mayor John Hollowell some advice.

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- The role of a Mayor is to make decisions not based on popularity
- Should be no grey areas

He added that he felt a lot of issues were completed in the last four years, and thanked Council for their trust in him the last six and a half years. He has meet six to seven influential persons in Helena, and felt that it was an experience that never would have happened without being Mayor.

STANDING COMMITTEE RECOMMENDATIONS

Human Resource Committee- Historic Preservation Job Description

- ** *Councilperson Brush moved to recommend approval of the job description after review by legal, and seconded by Councilperson Gardner. The motion passed 6-0*

Finance Committee- Ambulance Bill

- ** *Councilperson Hollowell moved to recommend approving the lowering of an ambulance bill to \$15.00 a month, and seconded by Councilperson Galbraith. The motion passed 6-0*

BID OPENINGS

None

BID AWARDS

None

PUBLIC HEARINGS

- A. **RESOLUTION NO. 3877: A Resolution Pursuant to MCA 7-4-102 Setting Hours of Operation for City Offices on December 24, 2015**

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

UNFINISHED BUSINESS

None

NEW BUSINESS

- A. **Mike Coryell- Miles City Area Economic Development Council- Approval of Armory Grant**

- ** *Councilperson Hollowell moved to approve the grant in Resolution form, seconded by Councilperson Brush.*

Miles City Area Economic Development Council Executive Director Mike Coryell explained the City of Miles City is the sub recipient and its signature is required. The college had applied for a CDBG grant with the help of the County and City. Both will enter the agreement by signing the agreement. He added, it will not cost the City any money by signing the agreement.

- ** *The motion passed 6-0*

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B. Reconsideration of Resolution No. 3869: A Resolution Approving the Landlord's Release Agreement Between the City of Miles City, SJ & TJ Properties LLC, and The City of Miles City, Pertaining to Personal Property and Fixtures Located on City owned Property

VETO OF RESOLUTION N. 3869

§7-5-4205(3) MCA and §2-106(6) of the Code of Ordinances of Miles City, Montana provide that the mayor has the power to "veto any objectionable part of a resolution or ordinance and approve the other parts." §2-106(7)(b) of the Code of Ordinances of Miles City, Montana provides that "the veto power of the mayor as to ordinances must be exercised in writing at the next regularly scheduled meeting" of the council. Accordingly, I hereby veto Resolution No. 3869, "A Resolution Approving the Landlord's Release Agreement Between the City of Miles City, SJ & TJ Properties LLC, and The City of Miles City, Pertaining to Personal Property and Fixtures Located on City Owned Property," in its entirety.

DONE this 22nd day of December, 2015

Mayor Grenz explained the reasons why he vetoed the Resolution:

- Stockman Bank will get its name on the lease and would receive any money first before the City
- The lease is 1.5 cents per square foot, and thought that was very cheap
- Instead, Stockman Bank should get its name on the lease
- Felt that it was wrong for Stockman Bank to get ahead of the City to receive any money if the lease should default

Attorney Rice said the veto needs to be confirmed or overridden by 2/3 vote, and can be done at this meeting or the next.

** *Councilperson Galbraith moved to override the Mayor's veto, seconded by Councilperson Brush.*

Attorney Rice said that in this case the bank is requesting for the first position lien, for the right to remove the property, which is in all our leases, that you can remove the improvement if not at default. It is also asking to not be required to step in to assume the lease in the event of a defaulted. The bank had requested to maintain that lien on the property the city would certainly have the rights to lease it out and sell the improvements. He added that the improvements would have to be purchased from the bank.

Councilperson Ahner said that the leases were redrafted to remove whatever improvement in a committed time if the lease was defaulted. If not removed, the property would become property of the City. He supported the Mayor because he felt that the City should be the first on the list if the loan defaulted.

Councilperson Gardner asked what the ramification would be if the Resolution would pass, the loan defaulted and the bank choose not to relinquish the first position.

Attorney Rice said that if the City would choose to sell the improvements, the bank would have a lien and would get paid off at closing.

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Councilperson Galbraith asked if the lease is defaulted and the bank has a lien on the property what happens if the City leases the property to someone else.

Attorney Rice said if the City would lease the property to someone else the lessee would have to pay the bank for the improvements. The lessor also has the option to remove any improvements and the building.

Councilperson Hollowell thought that any lessee would want to protect their investment and if they cannot get loans from the bank then the City could not attract any business. He thought that was the whole idea and said that the City cannot lose the land that we have control of. As far as the improvements, the City does not own the improvements; we can take them as improvement by default. He was not interested in the City taking advantage of the situation. He added the City takes risks in all leases.

**** Councilperson Ahner asked for an end of debate, seconded by Councilperson Brush. The motion passed 5-1 with Councilperson Hollowell voting no.**

**** On roll call vote the original motion failed 4-2 with Councilpersons Gardner and Hollowell voting yes. Resolution No. 3869 was vetoed.**

C. Reconsideration of Resolution No. 3870: A Resolution Releasing Requirements of Certain Lease Agreements Pertaining to City of Miles City Property Leased by Jerry Singleton and Allowing Truck Washing Operations

VETO OF RESOLUTION N. 3870

§7-5-4205(3) MCA and §2-106(6) of the Code of Ordinances of Miles City, Montana provide that the mayor has the power to “veto any objectionable part of a resolution or ordinance and approve the other parts.” §2-106(7)(b) of the Code of Ordinances of Miles City, Montana provides that “the veto power of the mayor as to ordinances must be exercised in writing at the next regularly scheduled meeting” of the council. Accordingly, I hereby veto Resolution No. 3870, “A Resolution Releasing Requirements of Certain Lease Agreements Pertaining to City of Miles City Property Leased by Jerry Singleton and Allowing Truck Washing Operations,” in its entirety. DONE this 22nd day of December, 2015

Mayor Grenz explained he vetoed the Resolution because discharge has been going on for decades and nothing has been corrected. He felt that there are no teeth in the lease to stop the discharge. He felt that extending the lease for 60 days and place verbiage in the lease to address the problem would be the answer. This would allow Mr. Singleton to continue with his lease, Mr. Boughton would be happy with the condition of his land and to protect the City’s interest.

Lessee Jerry Singleton said there were huge sales at the stockyard this fall and the situation got out of hand. Within one hour after finding out about the over spillage a four-foot dike was built. He did not have a problem with language being added to the lease on noxious weeds, but felt it should be added to all City property. He added that there were no noxious weeds in the area. There is a natural run off for the site which goes into Mr. Boughton’s land and you can’t change Mother Nature.

**** Councilperson Galbraith moved to extend the lease for 60 days and**

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address the problem with an addendum, seconded by Councilperson Sloan and on roll call vote passed by a 2/3 vote of 6-0.

D. Reconsideration of paid time off for City Employees on December 24, 2015

** *Councilperson Ahner moved to allow City Hall to close at Noon with non-essential employees using comp time, vacation or leave without pay for the hours closed, seconded by Councilperson Gardner. After a brief discussion and on roll call vote the motion was tied 3-3. Mayor Grenz broke the tie voting yes. The motion passed.*

E. RESOLUTION NO. 3871: A Resolution Approving a Memorandum of Understanding Between the Chief of Police and the 283B Police Union Pertaining to Shift Bidding

** *Councilperson Brush moved to approve the Resolution, by title only, seconded by Councilperson Hollowell. After a brief conversation and on roll call vote the motion passed 5-1 with Councilperson Galbraith voting no. Resolution No. 3871 passed*

F. RESOLUTION NO. 3872: A Resolution of the City Council of the City of Miles City, Montana Adopting an Amended Annexation and Extension of Services Plan

** *Councilperson Galbraith moved to approve the Resolution, by title only, seconded by Councilperson Gardner and on roll call vote passed 6-0. Resolution No. 3872 passed*

G. RESOLUTION NO. 3873: (First Reading) A Resolution Pursuant to 7-6-4006 of the Montana Code Annotated, Authorizing Amendment of Final Budget for FY 2015-2016 to Increase the Budgeted Amount in Fund # 4050-383000 From Sale Proceeds From the Sale of Real Property Located at 502 Marion, Miles City, Montana

** *Councilperson Galbraith moved to approve the Resolution with correction to the appropriation for the amount of \$13,779.06, seconded by Councilperson Gardner and on roll call vote passed 6-0. Resolution No. 3873 passed first reading*

H. RESOLUTION NO. 3874: A Resolution Revising City of Miles City Personnel Policies Regarding Nepotism

** *Councilperson Brush moved to approve the Resolution, by title only, seconded by Councilperson Hollowell and on roll call vote passed 6-0. Resolution No. 3874 passed*

I. RESOLUTION NO. 3876: A Resolution of the City of Miles City, Montana Increasing the Rates for the Users of the City's Sewer System

** *Councilperson Galbraith moved to approve the Resolution, by title only, seconded by Councilperson Sloan.*

Councilperson Galbraith explained the City needs to add a 6-million-dollar upgrade to the sewer system. In order to get low interest financing

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the City has to raise its rates.

Attorney Rice said that the Resolution could not be voted on because the Resolution was not on the agenda under Public Notice.

** *Councilperson Hollowell moved to open the floor to public comments, seconded by Councilperson Galbraith the motion passed 6-0.*

Director Kelm explained the proposed rate increase on the public notice of 119% was incorrect, it should be 86%. The hired engineers had calculated it wrong. The sewer rates are calculated by water usage for November, December, January and February, because those four months give a close accurate count of water used and goes down the drain. With using this calculation, the City did not meet the target rate of approximately \$75.00, so the City did not get as many grants as would have liked. The sewer rate is the only thing being increased. There are three items that the 6.8 million dollar upgrade will cover. They are: 1) UV Disinfection 2) bio-solid handling and 3) Septic receiving station. The City is on an Administrative Order of Consent that the Council had signed to go ahead and get those improvements done.

A 5/8 residential meter will increase \$12.56 a month and a 5/8 commercial meter will increase \$14.28. Comparing the City's rates with an engineer's survey shows that the City of Miles City is still very competitive. The only communities less than the City of Miles City are Harlowton, Billings, Helena, Butte and Great Falls and that is because they have a larger population.

The rates have been figured and refigured to keep them as low as possible and still pay for debt payment and the continued cost of the operation and maintenance for the facility.

Robert Peccia and Associates Engineer Brad Koenig said City Council and City had worked very well for many years at managing the sewer plant to keep it in compliance. It is now time the upgrades are needed to be done to meet requirements and new regulations. He added the improvements are required by Department of Environmental Quality.

Matt Kercheval, 702 North Earling thought a biogas/digester treatment plant like the one Great Falls had would be the best option.

Director Kelm said to build a plant that Mr. Kercheval proposed would cost the City 56-60 million dollars.

Jeanee Eads, 412 Yellowstone said that it was unjust to raise rates. She said she lives out of city limits and has a well.

Director Kelm said that the solution is to purchase a water meter then they would be billed according to what is used.

Gary Wirtanen, 2115 Main said that the problem had been passed down by the community. It's a bitter pill to swallow but the money is going to something tangible. We need to invest in the community and supported the increase.

John Uden, 70 Neu Vu Drive asked what fines the City is looking at if not in compliance.

Director Kelm said it would be \$10,000 everyday the City is out of compliance and does not meet regulations. If not in compliance, DEQ would produce

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an Administrative Order of consent for the City to comply to.

Gary Ryder asked if there was a current order and if so how long does the City have to comply.

Director Kelm said yes, and the City needs to be in compliance by February 2017. That would include the facility running and updated with all regulations.

CJ Truedale, 509 South Merriam asked with the cost of the other Cities mentioned earlier, were any of those numbers standardized based on the number of well user versus meter user?

Director Kelm did not know. He believed that they were all meter users.

Mr. Truedale asked since the City wanted to do the improvements now and not wait, between the low interest loan and a higher interest loan, what was the trade off?

Director Kelm said the City is not at the target rate to get the additional grant dollars. Additional grant dollars were about \$250,000 dollars.

Mr. Truedale asked about the alternative bio-fuel process. Was there any alternative looked at for the construction of the system?

Director Kelm said yes the City and Engineers did go through several different processes. This included slush thicken, thicken digester, blowers, pumps and measure of efficiency. The process chosen was the most efficient for the City to keep operating cost down.

Mr. Truedale asked what the measure of efficiency was. Was it by volume of waste or efficiency?

Engineer Koenig explained two years ago he started looking at the growth for the City of Miles City in the next twenty years. The sewer plant has 1.1 million gallons of wastewater every day and the plant is capable to process 2 million gallons a day, so that was not the problem. It's not so much a capacity issue, it's a quality issue. Each unit process was looked at based on construction cost and maintenance cost. Then the process was looked at as a whole as far as what is the cheapest for the City. Then they make their recommendation. The problem is to upgrade to DEQ requirements.

Director Kelm said the City looked for the best process; Engineer Koenig looked at the best process, and once agreed upon it was submitted to DEQ. Then DEQ engineers look at all the paperwork submitted to make sure the City has chosen the best process. If they agree they will give their stamp of approval, which it did and the City received 600,000 in grant dollars for this project.

Mr. Truedale said he would like to understand the primary efficiency of the dollars rather than the longevity reviewed. If he is going to live here for another 20 years and have to do this again, he is still going to be voting.

Director Kelm said the life span of a treatment plant is 20 years, so they will only let you take a loan out for 20 years. Our plant is 35 years old and will get more

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years out of it because the City has kept up on preventative maintenance. When the plant was built all the regulations and level of discharge was not there. But now it is time to upgrade because of new regulations.

Director Kelm said the two percent per year will cover electricity, filters, UV bulbs and maintenance items. These items go up 6-10 percent a year. If there is excess money, Council can lower the rates.

Councilperson Brush liked the UV pod system used for breaking down. It works with the population of the City's growth. If the population goes down the City can adjust, if the population goes up it can be adjusted.

Gary Ryder, representing the Custer County Water and Sewer District said they were opposed to the rate increase. He asked about reserves and what type of transparency is there. He thought the City should have been charging users for the last 15 years to get the funds where needed to pay for the upgrade.

Mayor Grenz said that he had made a Resolution to do just that. Somewhere in the process it was dropped. If the Resolution had gone through, the City would not be in this situation right now.

Director Kelm said the Sewer plant has a \$500,000 reserve and one incident would take care of that in a heartbeat. Financially at the sewer plant, the City is not in as good shape as the water plant. He agreed with the Mayor that the Resolution got dropped somewhere, and through the years the City has kept the rates as low as it could. He is sorry, but now is the time to do the upgrade.

Mayor Grenz added, the loan is 1.5% interest and CTEP makes \$750,000 grant available. The City can apply for it every year and if the target rate is met, we could be chosen.

Councilperson Ahner said with the jails 7.5 million dollar bond, property assessment that went up 30-40 percent, MDU a possible 20% increase, 97% increase on sewer rates, 6.8 million dollars for phase II and phase III's cost unknown, flood insurance increase, and the dike, people will not be able to afford to live in Miles City and will have to leave. Miles City is an elderly community and has reached a tipping point.

Director Kelm explained with this upgrade it will put us in compliance with all regulation in Phase II. Once in compliance, DEQ will not require the City to comply with nutrients standards until affordable technology is out there. We can sit back and do nothing and pay the \$10,000 a day fine. The City is trying to not meet the nutrient standards because the treatment out there cannot regularly meet those limits without building a whole new treatment plant. That would cost the City a whole lot more.

Mayor Grenz said he has done all he could do. He had saved the City \$350-360 thousand dollars by stopping the illegal spending of the water and sewer fund. He saved the City money by getting rid of the meter reader position, police receptionist position, mechanic position and some positions in the fire department. This year he combined the Enforcement Officer and Animal Control positions.

Gary Wirtanen, 2115 Main Street thanked the Mayor and the leaving Council for all it has done.

Director Kelm said the City will be looking into helping fixed income residents by opening a donation fund.

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J. RESOLUTION NO. 3877: A Resolution Pursuant to MCA 7-4-102
Setting Hours of Operation for City Offices on December 24, 2015

** Councilperson Hollowell moved to approve the Resolution, by title
only, seconded by Councilperson Brush and on roll call vote passed
6-0. Resolution No. 3874 passed

K. COUNCIL HEARING: Interview for Ward III Council Vacancies
No letters of interest were received.

ADJOURNMENT

** Councilperson Brush moved to adjourn the meeting, seconded by
Councilperson Hollowell, and passed unanimously.

The meeting was adjourned at 9:58 p.m.


C. A. Grenz, Mayor


Lorrie Pearce, City Clerk