

REGULAR COUNCIL MEETING October 24, 2017

7:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, October 24, 2017, in the City Hall Conference Room at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor John Hollowell called the meeting to order. Council Members present were Brant Kassner, Ken Gardner, John Uden, Rick Huber, Kathy Wilcox and Susanne Galbraith. Councilpersons Dwayne Andrews and Jeff Erlenbusch were excused.

Also present were City Attorney Dan Rice, Fire Captain Ed Kanduch, Flood Plain Administrator/Auto Cad/Assistant PWPV Samantha Malenovsky, Cross Certified Operator Tom Speelmon and City Clerk/Minute Recorder Lorrie Pearce.

PLEDGE OF ALLEGIANCE

Mayor Hollowell led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 10/10/2017

** *Councilperson Galbraith moved to approve the minutes of the Regular Council Meeting of October 10, 2017, and seconded by Councilperson Gardner. The motion passed by unanimous consent, 6-0.*

Finance Committee Minutes: 10/05/2017

Finance Committee Meeting

October 5, 2017

The Finance Committee met Thursday, October 5, 2017 at 6:00 p.m. in the City Hall Conference room. Present were Committee Chairperson Susanne Galbraith and Committee Members Kathy Wilcox and Dwayne Andrews. Committee Member Rick Huber was excused.

Also present were: Acting Fire Chief Brandon Stevens, Fire Fighter III Sarah Lewin, Fire Captain Mike Miller and City Clerk/Recorder Lorrie Pearce.

Committee Chairperson Galbraith called the meeting to order.

1. Request of Citizens & Public Comment

Captain Miller updated the committee on the fire training building:

- Received final approval for funding up to \$250,000, the amount was \$50,000 less than first thought, downsizing the building to three levels instead of four will be needed, but the City will still meet its objectives
- Payback amount will be a little higher than anticipated at \$13,000
- USDA received a grant to pay for all environment requirements
- Captain Miller will continue his training so he can train at the facility, and possibly train the trainer

2. Resolution No. 4110- A Resolution Adopting Apprenticeship Standards For Firefighter/Paramedic

** *Committee Member Andrews moved to recommend to Council the approval of the Resolution, seconded by Committee Member Wilcox.*

Firefighter III Lewin explained the standards:

- Setting the apprenticeship program as a Federal program will help City employees receive cost reimbursement for training. At this point the employees are paying for the training out of their pockets
- Set up for an entry level fire fighter/paramedic
- No commitment from City for the funding at this point

** *The motion passed 3-0*

3. Memorandum of Understanding to the Local 600 Union Contract

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****** *Committee Member Galbraith moved to refer the memorandum of understanding to the local 600 union contract to Human Resource Committee, seconded by Committee Member Andrews. The motion **passed** 3-0*

4. Discussion on Signage at Denton Sports Complex

Chairperson Galbraith had talked to Director Gray about the issue. He thought that since the league pays for replacement bulbs/lights and the light bills that the City should leave the lease as is.

****** *Committee Member Wilcox moved to leave as is, seconded by Committee Member Galbraith. The motion **passed** 3-0*

5. Discussion on Business Licenses

Chairperson Galbraith asked the committee how it would like to proceed with the business licenses:

- Committee Member Wilcox thought everyone that does business in the City should have a business license and the City maintain a current inventory of the name of the business, what the business is and the contact information to share with fire and police department. Business license should at least cover staff cost.
- Clerk Pearce explained yearly invoices that are sent to businesses:
 1. Home business license- \$10.00
 2. Loading Zone permit (signage)- \$72.00
 3. 2nd hand/pawn shops - \$50.00
 4. All Beverage License - \$400
 5. Beer/Wine License - \$300
 6. Video Amusement License- \$30 per machine
 7. Others: Construction, Carpentry, Door to Door - \$0
- Committee Member Wilcox thought the committee should find out how long it has been since the City had raised these cost
- Chairperson Galbraith thought that charging a business a certain amount for the initial license and then charging a lower amount for renewal would help the City keep track of the business and its product
- Committee Member Andrews thought the committee needed to have a soft touch on the charges or increases. He thought businesses are the blood line to the City and did not want to chase them away. Also, the City should not retro the current business for the initial cost, but charge for a yearly renewal
- The committee will have an ongoing discussion on the issue

6. Adjournment

****** *Committee Member Andrews moved to adjourn the meeting, seconded by Committee Member Wilcox and **passed** unanimously, 3-0.*

The meeting was adjourned at 6:55 p.m.

****** *Councilperson Galbraith moved to approve the minutes of the Finance Committee Meeting of October 5, 2017 and seconded by Councilperson Huber. The motion **passed** by unanimous consent, 6-0.*

Public Service Committee Minutes: 10/05/2017

PUBLIC SERVICE COMMITTEE MEETING October 5, 2017

The Public Service Committee met Thursday, October 5, 2017 at 5:00 pm in the City Hall Conference Room. 17 S. 8th Street, Miles City, Montana. Present were Committee Chair Dwayne Andrews and Committee Members Ken Gardner, Kathy Wilcox and Committee Member John Uden was excused.

Also present were Public Works Director Scott Gray and Payroll, Claims Clerk/Minute Recorder Ally Capps.

1. Approval of Public Service Minutes from September 27, 2017

****** *Committee member Wilcox made a motion to approve the minutes of the Public Service Meeting on September 27, 2017, seconded by Committee Member Gardner. Motion **passed** unanimously 3-0.*

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2. Request of Citizens/Public Comment

-None-

3. Committee Member Comments

-None-

4. Unfinished Business

- None -

5. New Business

A. Recommendation to Council: to grant an easement to Compass Consultants, for the Right of Way from Wal-Mart along Stower Street, Winchester Street and Palmer Street to the cell tower on N. Haynes Avenue, to run a fiber optic cable for a cell phone tower on the Wal-Mart Building.

Public Works Director Gray explained the route Compass Consultants, is requesting for an easement. This is their second set of plans, the Department of Transportation would not grant them an easement down N. Haynes Avenue being there is already lines placed there. Compass Consultants is out of Minnesota and they are using KLJ as engineer.

There was a brief discussion period between Public Works Director Gray and the Committee reviewing the route and if it would affect the City residents.

**** Committee Member Wilcox made a motion to approve the Recommendation to Council to grant the easement, seconded by Committee Member Gardner. On a roll-call vote, the Motion passed unanimously 3-0.**

There was a brief discussion between Public Works Director Gray and the Committee. The original Right of Way did not include Cale Street.

**** Committee Member Wilcox made a motion to approve the Recommendation as revised, to include Cale Street before Winchester Street in the wording for granting the Right of Way, seconded by Committee Member Gardner. On a roll-call vote, the Motion passed unanimously 3-0.**

****Committee Member Wilcox moved to adjourn, seconded by Committee Member Andrews, motion passed unanimously.**

**** Councilperson Gardner moved to approve the minutes of the Public Service Committee Meeting of October 5, 2017 and seconded by Councilperson Huber. The motion passed by unanimous consent, 6-0.**

SCHEDULE MEETINGS

The following meetings will be held in the City Hall Conference Room:

- Human Resource Committee: Thursday, November 9 @ 5:15 p.m.
- Finance Committee: Thursday, November 9 @ 6:00 p.m.

REQUEST OF CITIZENS & PUBLIC COMMENT

Citizen Bernard Dighans, 1519 Palmer said the curb work and ADA corners installed in his ward looked good. Said there is a burned house on the 200 block of North Cottage that the tin looks like it could blow off at any time. With the high winds that we have been receiving; he was worried the tin could hurt someone if it was ripped off the roof. He asked where the house is as far as public nuisance policy. Mayor Hollowell said it is at the City Prosecutor office.

APPOINTMENTS

None

PROCLAMATIONS

None

STAFF REPORTS

Dawn Colton- Update on selling property to United Parts (Industrial Park)

In Planner Colton's absence, Attorney Rice and Mayor Hollowell added to the update:

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- Very close to getting approved
- Since the lease was before the 1950's the State can give the City an exemption on the subdivision
- Dowl will survey the property
- Property will need to be annexed before the City can sell the property

Custer County Representative Bill Ellis added that the County is waiting for the plat to be created and will then process.

Flood Administrator Malenovsky updated the Council on the flood control project:

- KLJ has been surveying culverts along the Tongue and Yellowstone River, which will be used by the Army Corp of Engineers for its hydraulic report.
- The survey will help the city in locating where the culverts come out of the rivers. This is needed information to identify if the City can use some of the material from the old levy into the new levy

Councilperson Uden thanked everyone who worked on the slough area because it answered the question as to who owned the slough area. It cleared up a lot of questions for the City, now and in the future.

Flood Administrator Malenovsky said that DNRC laid claim on the slough, and the City could apply for a permanent easement in the future, and if the Mitigation Plan is approved, the City will apply for a \$75,000 grant to be used on the slough.

CITY COUNCIL COMMENTS

Councilperson Wilcox briefly discussed the minutes taken at the last Health Board of Appeals meeting.

Councilperson Gardener mentioned that the public nuisance on Orr Street is in the court system

Councilperson Huber complimented the public works department on having great traffic control when it was cutting down trees. He said it looked professionally and well done.

MAYOR COMMENTS

Mayor Hollowell reported:

- School signs are completed
- City hired a contractor to cut trees, but the City is removing them, which is saving the City money
- Public Works Department is working with Transco on a project
- Most parks are winterized
- Asked for consensus of Council to waive a \$521.01 water bill. He explained the organization used 190 thousand gallons of water to prep Stanley Park field. He felt the organization should not pay for it because it was all volunteer time and money, and their future plan is to completely revamp the park into a baseball field. He said the Park department pays for the water in other parks, and felt it should pay for this one also. The issue was moved to Finance Committee
- The Yellowstone River bombing may be shown on the travelers channel in the near future

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- Brent Leischner resigned from the TIFD Board
- Director Kelm, Director Gray and he met with a BNSF representative to discuss the 4th Street railroad crossing. He felt nothing was going to happen until next year

STANDING COMMITTEE RECOMMENDATIONS

Finance Committee- Send Water/Sewer receivable for an amount of \$895.94 to collections

** *Councilperson Galbraith moved to send water/sewer receivable for an amount of \$895.94 to collection, seconded by Councilperson Huber and, on roll call vote, passed unanimously, 6-0.*

BID OPENINGS

Janitorial Service for City Shop

No bids were received- *Councilperson Galbraith moved to contact EMI to see if they were interested in cleaning the City Shop, seconded by Councilperson Kassner, and passed 6-0*

Wastewater Treatment Plant or Old Lagoon Lease

Four bids were received:

- Robert Smith- \$2,100
- Northside Auto Dismantler- \$2,548
- *Levi Gordon- \$2,798*
- Doug McLean- \$2,050

** *Councilperson Galbraith moved to refer the lease bids to the Finance Committee, seconded by Councilperson Uden and, on roll call vote, passed unanimously, 6-0.*

BID AWARDS

Printing Contract- See Resolution No. 4114

PUBLIC HEARINGS

A. **ORDINANCE NO. 1316:** An Ordinance Revising Sections 12-56 Through 12-62 of the Flood Code Provisions of the Code of Ordinances of Miles City, Montana, Regarding Review of Floodplain Variance Applications

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

UNFINISHED BUSINESS

A. **ORDINANCE NO. 1316:** *(Second Reading)* An Ordinance Revising Sections 12-56 Through 12-62 of the Flood Code Provisions of the Code of Ordinances of Miles City, Montana, Regarding Review of Floodplain Variance Applications

** *Councilperson Kassner moved to approve the Ordinance, read by title only, seconded by Councilperson Gardner.*

** *Councilperson Gardner moved to amend the Ordinance by adding verbiage to the Ordinance to send the variance to the Board of Appeals and have the Board of Appeals send a recommendation to Council for approval, seconded by Councilperson Kassner.*

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Attorney Rice explained the change would be comprehensive. The verbal motion would not make the change to the Ordinance. The Ordinance change would involve two levels of review with the Board of Appeals having a public hearing and making a recommendation to council. The Board of Appeals is not an advisory Board of Appeals, so it would be very unusual. A new section would need to be added.

Items that were discussed:

- Councilperson Galbraith asked Attorney Rice if there is a mechanism in effect for variances. She thought the reason for seeking a variance was because the variance request change goes against State and Local floodplain guidelines. Attorney Rice responded by saying seeking a variance for relief from strict application from the flood code and there is a list of criteria that would need to be applied to that request, and finance is not a hardship. Councilperson Galbraith asked if that was where the problem came from.
- Administrator Malenovsky said the Ordinance is not coming from one direct variance. Right now the community is in violation with FEMA. When someone asks for a variance from floodplain, you are asking either from local, state or federal law, sometimes all three. When you hit all three FEMA gets mad and the community gets in trouble, which is where we are right now. The Community does have a chance for this applicant to go back to Board of Appeals and give them a chance to rescind their decision. If the Board of Appeals does not rescind the variance then the City stays in violation and CRS points could be lost. The rating could be cut to a class nine (9), which would cut the Cities saving for insurance to its residence from \$43,000 to \$21,500 per year. The Ordinance is from ideas of what other Cities do so that the Council or Commissioners make the decision because it affects the Community.
- Councilperson Galbraith asked about the process. Administrator Malenovsky said every variance needs to be sent to the State and the State sends to FEMA.
- Councilperson Uden asked what the ultimate effect is by changing Section 12-56 thru 12-62. Administrator Malenovsky said instead of the flood variance going to the Board of Appeals, it would go to the Council. The community is in the Section 205 process and trying to become a resilient community. A violation is not a way to show it is a resilient community. Her job is to protect the community, not one specific person. She does not know what the Board of Appeals will decide on the variance, because it is out of her hands.
- Attorney Rice said that he did not believe that FEMA was telling the City to change its code. FEMA sent the City a violation letter and staff looked at the letter asking how we can make sure this does not happen again. Mayor Hollowell said the Ordinance is not based off one decision; it is based on not having it happen again.
- Councilperson Wilcox asked how many floodplain variances would be reviewed in a year. Administrator Malenovsky said approximately three to five.
- Administrator Malenovsky felt whether the variance decision came from the Board of Appeals or Council that training is needed.
- Attorney Rice explained there is no procedure for an approved variance to go back to Board of Appeals to be reviewed again. This need to be taken care of, even if it means the City buys the property owner a couple of vents.

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- Mayor Hollowell said the Board of Appeals looks at three items: conditional use, any zoning/building permits, and flood. The conditional use and flood were delegated to the Board of Appeals by Council. His concern is the Board of Appeals is not asking questions to the person they should be asking. In this incident a staff member gave the Board of Appeals information and the Board of Appeals used it to make the decision. The other mistake was from a conditional use permit, and that is why he thought the Ordinance was needed.
- Attorney Rice suggested whether the decision comes from the Board of Appeals or Council, if there is a variance request a staff report should be written.

*** Councilperson Huber moved to postpone the Ordinance until the November 28, 2017 Council meeting and to send back to flood committee, seconded by Councilperson Galbraith and, on roll call vote, passed 4-2, with Councilperson Gardner and Kassner voting no*

NEW BUSINESS

A. RESOLUTION NO. 4111: A Resolution Adopting a 2017 Update to Multi-Hazard Mitigation Plan for Custer County, Montana and City of Miles City and Town of Ismay

*** Councilperson Galbraith moved to approve the Resolution, read by title only, and seconded by Councilperson Gardner.*

Custer County Disaster/Emergency Deputy Coordinator Bill Ellis said the Multi Hazard Mitigation Plan was updated by consultant Tetra Tech. The plan needs to be updated every five years, and will be updated as needed if financing is available. The cost of the plan was \$50,000, with \$37,999 of it paid by a grant and \$12,501 with soft or in kind match. He also talked about Council getting on board with the LEPC. LEPC is a Board that was designed to help with the planning on multi hazards. He asked everyone to sign up for emergency alerts by texting 888777. Custer County is working with dispatch on a Facebook page to get the information out to the public and would like to coincide with the City and County website for the alerts.

Administrator Malenovsky encouraged everyone to attend the LEPC meetings. The meetings are full of great information.

** On roll call vote, the motion passed by unanimous consent, 6-0* **Resolution No. 4111 passed.**

B. RESOLUTION NO. 4113: A Resolution Approving a Revised Fire Protection Agreement for Contracted Fire Services

*** Councilperson Gardner moved to approve the Resolution, read by title only and seconded by Councilperson Kassner. On roll call vote, the motion passed by unanimous consent, 6-0.* **Resolution No. 4113 passed.**

C. RESOLUTION NO. 4114: A Resolution Authorizing the City of Miles City to Enter Into a City Printing Contract with Boss Printing Company

*** Councilperson Uden moved to approve the Resolution, read by title only and seconded by Councilperson Huber. On roll call vote, the motion passed by unanimous consent, 6-0.* **Resolution No. 4114 passed.**

D. ORDINANCE NO. 1317: (First Reading) An Ordinance Revising Zoning

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Code Sections 24-90, 24-91, and Article V (Definitions), so as to Call For
Review of Conditional Use Permits by City Council

**Ordinance No. 1317 was pulled from the agenda and referred to zoning
for review and recommendation**

ADJOURNMENT

** *Councilperson Galbraith moved to adjourn the meeting, seconded by
Councilperson Huber and passed unanimously.*

The meeting was adjourned at 8:42 p.m.



John Hollowell, Mayor



Lorrie Pearce, City Clerk