

# AGENDA

*Regular Council Meeting  
City Council Chambers*

*July 9, 2013  
7:00 p.m.*

CALL TO ORDER  
PLEDGE OF ALLEGIANCE  
ROLL CALL

1. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES

- |    |                           |           |
|----|---------------------------|-----------|
| a. | City Council              | 6/25/2013 |
| b. | Public Services Committee | 6/20/2013 |
| c. | Public Safety Committee   | 6/25/2013 |
| d. | Human Resources Committee | 7/02/2013 |

2. SCHEDULE MEETINGS

3. REQUEST OF CITIZENS & PUBLIC COMMENT

4. APPOINTMENTS

5. PROCLAMATIONS

6. STAFF REPORTS

- Update on Biggert Waters National Insurance Reform Act 2012
- Update on Flood Project

7. CITY COUNCIL COMMENTS

8. MAYOR COMMENTS

9. COMMITTEE RECOMMENDATIONS

**Public Safety Committee: June 25, 2013**

- Request to Remove two Stop Signs on Strevell Street at the Intersection of Strevell and Comstock
- Request for a Stop Sign at Palmer and 12<sup>th</sup> Street
- Request for a Reduced Speed Limit on Wells Street

**Human Resources Committee: July 2, 2013**

- Authorize Police Chief to Promote Two Field Grade Officers to the Rank of Sergeant

10. PUBLIC HEARINGS

11. OLD BUSINESS

12. BID AWARD

BID OPENING

13. NEW BUSINESS

**RESOLUTION 3614:** A Resolution Granting A Revocable License To Brandon Kelm For A Fence Encroachment Upon City Of Miles City Right Of Way For Comstock Street For The Benefit Of Lots 18 Through 20 In Block 17 Of The Highland Park Addition To The City Of Miles City, Commonly Known As 805 South Custer Avenue.

14. ADJOURNMENT

Public comment on any public matter that is not on the agenda of this meeting can be presented under ARequest of Citizens@ provided it is within the jurisdiction of the City to address. Public comment will be entered into the minutes of this meeting. The City Council cannot take any action on a matter unless notice of the matter has been made on an agenda and an opportunity for public comment has been allowed on the matter. Public matter does not include contested cases and other adjudicative proceedings.

## REGULAR COUNCIL MEETING

June 25, 2013

7:00 p.m.

### CALL TO ORDER

The Regular Council meeting was held Tuesday, June 25, 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 Mark Ahner, Dwayne Andrews, Roxanna Brush, Sue Galbraith, John Hollowell, Bill Melnik, Jerry Partridge, John Uden.

Also present were City Attorney Dan Rice, Public Utilities Director Al Kelm, Fire Chief Dale Berg, Police Chief Doug Colombik, City Planner Dianna Broadie, Grant Administrator Dawn Colton, Payroll/HR Officer Billie Burkhalter, Utility Billing Clerk Patti Bishop, Assistant Billing Clerk Linda McDowell, Parks Foreman Scott Gray, Engineering Clerk/Receptionist Diana Larson, 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 – 6/11/2013**

- \*\* *Councilperson Galbraith moved to approve the minutes of the Regular Council Meeting of June 11, 2013, seconded by Councilperson Brush and passed unanimously, 8-0.*

#### **Finance Committee Meeting: 6/12/2013**

- \*\* *Councilperson Ahner moved to approve the minutes of the Finance Committee Meeting of June 12, 2013. The motion was seconded by Councilperson Melnik and passed unanimously, 8-0.*

#### **Special Council Meeting: 6/13/2013**

- \*\* *Councilperson Uden moved to approve the minutes of the Finance Committee Meeting of June 13, 2013. The motion was seconded by Councilperson Brush and passed unanimously, 8-0.*

## SCHEDULE MEETINGS

Human Resources Committee: Tuesday, July 2, @ 6:00 p.m.

## REQUEST OF CITIZENS & PUBLIC COMMENT

*Dorothy Armstrong*, 1018 S. Stacy, thanked the council for including a flood plain feasibility study in the preliminary budget. She said, however, that her greatest concern is “the end result will be layoffs of city personnel and/or employees” in order to fund the study. A copy of her letter, which she distributed to the Council members, is attached to these minutes.

*Sylvester Augustyn*, 616 Knight, asked what could be done to control pigeons in the City, specifically the Historic Miles City Academy, formerly the Ursuline Convent. Police Chief Doug Colombik explained that he is working with the City Attorney to draft an ordinance that will allow the City police to shoot the pigeons on sight, although there has been opposition to this method of control.

## APPOINTMENTS

### Public Works Director:

Sue Galbraith protested that the Public Works Director, a department head, is appointed by the mayor with the consent of the council. Having received no name or information on the applicant in the council packet, however, she felt the Council would be unable to develop an informed opinion.

\*\* *Councilperson Brush moved to appoint Scott Gray as Public Works Director, seconded by Councilperson Melnik and, on roll call vote, passed 6-1, with Councilperson Galbraith voting no and Councilperson Hollowell abstaining.*

## PROCLAMATIONS

None

## STAFF REPORTS

## CITY COUNCIL COMMENTS

**Mark Ahner**

- Applauded the work done by Kiwanis in Wibaux Park. 100% of the money collected goes to the Wibaux Park Shelter.
- Noted the budget committee had seven meetings and recommendations have been forwarded to the Mayor.
- Thanked Public Utilities Director Al Kelm for his efforts in getting the parking lot at the Riverside Park restrooms completed. CTEP funds could not be used. The Jackson Group and Diamond J Construction worked together with Al and completed the paving for \$9,000 – Diamond J donated the labor for that project.
- Met with the Mayor and the County Commissioners regarding the Interlocal Agreement, which should go into effect July 1, 2013. There are two issues that need completed – the School Resource Officer and Booking Fees – but those should be ironed out soon.

#### **Sue Galbraith**

- Noted there were people standing out in the hall and suggested the meeting be moved upstairs. A few people subsequently left; the meeting remained in the Conference Room.

#### **Roxanna Brush**

- Mentioned she will be out of town from July 2 through the 9<sup>th</sup>.
- Said she had spoken to a gentlemen who shares an alley between Scott's Glass and the Rural Fire Department. He said there were large holes in that alley that need attention.
- Had seen someone fall on the sidewalk along Haynes Avenue directly across the street from Wendy's – The person stated there was an unlevel area in that sidewalk that should be marked.
- Received a phone call regarding her "no" vote on being able to use credit/debit cards to pay for water bills, etc. at the City. She explained that she voted no because, although there was no cost to the City, she did not feel it was fair to the citizens to have to bear that \$2 fee per transaction.

#### **John Uden**

- Said he was pleased with the progress being made on the Strevell Street Project.
- Mentioned that one of the new lights have been broken for several weeks. Director Kelm has already called for a replacement.
- Commended the City Clerk's office on its help with the budget process this far. He felt they did an excellent job under the circumstances.

**Dwayne Andrews**

- Thanked Ms. Armstrong for her comments and thanked the people who attended the meeting in support, and said that he agrees with her.

**Jerry Partridge**

- Said he also agreed with Mrs. Armstrong.

**MAYOR COMMENTS**

- Thanked Sigrid Laird for raising and donating \$9300 for the swimming pool project.

**COMMITTEE RECOMMENDATIONS**

None

**PUBLIC HEARINGS**

**RESOLUTION NO. 3601:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2012-2013 For State Of Montana Payments On Behalf Of Retirement Accounts And Providing For Hearing Thereon

Mayor Grenz called three times for comments from opponents, then three times for comments from proponents. Hearing no comments either for or against, the hearing was closed.

**RESOLUTION NO. 3602:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2012-2013 To Appropriate Unanticipated Revenues To Building Inspector Fund No. 2394 For Contracted Professional Services.

Mayor Grenz called three times for comments from opponents, then three times for comments from proponents. Hearing no comments either for or against, the hearing was closed.

**RESOLUTION NO. 3603:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2012-2013 To Appropriate Unanticipated Revenues To Airport Fund 5610 For Fuel Supplies

Mayor Grenz called three times for comments from opponents, then

three times for comments from proponents. Hearing no comments either for or against, the hearing was closed.

**RESOLUTION NO. 3605:** A Resolution Of Intent To Establish Fees For Historic Preservation Commission Services

Mayor Grenz called three times for comments from opponents, then three times for comments from proponents. Hearing no comments either for or against, the hearing was closed.

### **OLD BUSINESS**

**RESOLUTION NO. 3601:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2012-2013 For State Of Montana Payments On Behalf Of Retirement Accounts And Providing For Hearing Thereon

\*\* *Councilperson Ahner moved to approve the Resolution, read by title only, seconded by Councilperson Melnik and, on roll call vote, passed unanimously, 8-0. Resolution No. 3601 was adopted.*

**RESOLUTION NO. 3602:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2012-2013 To Appropriate Unanticipated Revenues To Building Inspector Fund No. 2394 For Contracted Professional Services.

\*\* *Councilperson Uden moved to approve the Resolution, read by title only, seconded by Councilperson Brush and, on roll call vote, passed unanimously, 8-0. Resolution No. 3602 was adopted.*

**RESOLUTION NO. 3603:** A Resolution Pursuant To §7-6-4006 Of The Montana Code Annotated, Authorizing Amendment Of Final Budget For FY 2012-2013 To Appropriate Unanticipated Revenues To Airport Fund 5610 For Fuel Supplies

\*\* *Councilperson Brush moved to approve the Resolution, read by title only, seconded by Councilperson Melnik and, on roll call vote, passed unanimously, 8-0. Resolution No. 3603 was adopted.*

### **BID AWARDS**

None

## BID OPENING

None

## NEW BUSINESS

### Approval of May Claims

- \*\* *Councilperson Brush moved to approve the May claims, seconded by Councilperson Uden and, on roll call vote, passed unanimously, 8-0.*

**RESOLUTION NO. 3607:** A Resolution To Establish Fees For Historic Preservation Commission Services.

- \*\* *Councilperson Ahner moved to adopt the Resolution, read by title only. The motion was seconded by Councilperson Melnik and, on roll call vote, passed unanimously, 8-0. **Resolution 3607 was adopted.***

**RESOLUTION NO. 3608:** A Resolution Authorizing The City Of Miles City To Enter Into A Project Agreement Modification With The Montana Department Of Transportation To The 2012 Project Agreement For Safe Routes To School And Community Transportation Enhancement Program Grants

- \*\* *Councilperson Uden moved to adopt the Resolution, read by title only. The motion was seconded by Councilperson Melnik and, after brief discussion and on roll call vote, passed unanimously, 8-0. **Resolution 3608 was adopted.***

**RESOLUTION NO. 3609:** A Resolution Modifying The Established Wage For Swimming Pool Lifeguards For Fiscal Year 2012-2013

- \*\* *Councilperson Brush moved to adopt the Resolution, read by title only. The motion was seconded by Councilperson Hollowell and, on roll call vote, passed unanimously, 8-0. **Resolution 3609 was adopted.***

**RESOLUTION NO. 3610:** A Resolution Approving A Real Property Lease Agreement Between The City Of Miles City And Ken And Alane Stabler, Located Within The Industrial Site Owned By Miles City, Montana

- \*\* *Councilperson Hollowell moved to adopt the Resolution, read by title*



*only. The motion was seconded by Councilperson Galbraith and, on roll call vote, passed unanimously, 8-0. Resolution 3610 was adopted.*

**RESOLUTION NO. 3611:** A Resolution Authorizing The City Of Miles City To Enter Into A Memorandum Of Understanding With Dave Shepherd D/B/A Shep's Welding Of Marmarth, North Dakota, For Use Of A Polaris Ranger Utility Vehicle

*\*\* Councilperson Uden moved to adopt the Resolution, read by title only and seconded by Councilperson Melnik.*

Councilperson Uden explained that the use of this vehicle is being donated by Dave Shepherd of Shep's Welding in Marmarth, North Dakota. He thanked Mr. Shepherd for his generosity.

*After brief discussion and on roll call vote, the motion passed unanimously, 8-0. Resolution 3611 was adopted.*

**RESOLUTION NO. 3612:** A Resolution Authorizing The City Of Miles City To Enter Into A Contract Entitled "Short Form Of Agreement Between Owner And Engineer For Professional Services" With Kadrmass, Lee & Jackson, Inc., A North Dakota Corporation Registered To Do Business In Montana

*\*\* Councilperson Ahner moved to adopt the Resolution, read by title and only and inserting the date of "July 1, 2013" into the blank of the first paragraph of Exhibit "1." The motion was seconded by Councilperson Hollowell.*

Councilperson Andrews asked if the \$10,000 referenced in the Resolution was in addition to the \$187,000 budgeted for the feasibility study or if it was part of that amount. It was explained that if any portion of the engineering study performed by KLJ can later be applied to the flood control study, that portion of the fees will come out of the budget for the study. If not, then it will be paid for separately, up to the \$10,000.

*On roll call vote, the motion passed unanimously, 8-0. Resolution 3612 was adopted.*

**RESOLUTION NO. 3613:** A Resolution Pursuant To Section 16-48 Of The Miles City Code Of Ordinances, Establishing Dates, Times And

## Locations For Discharge Of Fireworks Within The City Limits

- \*\* *Councilperson Hollowell moved to adopt the Resolution, read by title only and seconded by Councilperson Melnik.*

Councilpersons Uden and Brush noted Riverside Park will be very busy on the Fourth of July, with multiple bands playing and other activities. Mary Elizabeth Irion, 141 Balsam Drive, also cited the numerous activities in the park that day and also suggested fireworks be banned there on the 4<sup>th</sup>.

- \* *Councilperson Uden moved to amend the Resolution to ban the detonation of fireworks by the public on July 4, 2013, in Riverside Park. The motion was seconded by Councilperson Brush.*

Councilperson Hollowell asked if Councilperson Uden would amend his motion to include the banning of fireworks on July 5, 2013, due to the softball games being played there on that day. Councilperson Uden said he would include that in his motion, Councilperson Brush renewed her second on that motion.

- \* *On roll call vote, Councilperson Uden's motion to amend Resolution 3613 passed 7-1, with Councilperson Ahner voting no.*

- \*\* *On roll call vote, Councilperson Hollowell's motion to adopt Resolution 3613 passed 7-1, with Councilperson Ahner voting no. Resolution 3613 was adopted, as amended.*

## ADJOURNMENT

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

The meeting was adjourned at 7:55 p.m.

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C.A. GRENZ, Mayor

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**Lorrie Pearce**  
**City Clerk**

## **Public Services Committee Meeting June 20, 2013**

The **Public Service Committee** met Thursday, June 20, 2013, at 6:30 pm in the City Hall council chambers. Present were Committee Chairperson Sue Galbraith and Committee Members Dwayne Andrews and John Hollowell. Committee Member Jerry Partridge was excused. Also present was Public Utilities Director Al Kelm and Committee Recorder/Deputy City Clerk Connie Watts.

Chairperson Galbraith called the meeting to order.

### **1. Discussion About Adding Frisbee Golf to Riverside Park**

Brandon Janshen and John Goff of Milestown Community Improvement, Inc., presented a proposal to the Committee to establish a nine-hole Frisbee golf (folf) course in Riverside Park. They have spoken to the schools, who were receptive to the idea of possibly incorporating folf into their P.E. curriculum. Folf is just like golf, they explained, except a Frisbee is thrown into a chain basket instead of a golf hole. A diagram of the proposed course was distributed.

Riverside Park was chosen because of the interesting terrain, it is maintained, is close to schools, and would generate interest in the downtown area. The course is designed so that the Frisbees are thrown away from the playground area.

Director Kelm and Committee Member Andrews felt the folf course was a wonderful idea. However, they both felt Riverside Park was too busy to be used for this project. Director Kelm suggested the group consider Milwaukee Park. It is rarely used and is plenty big enough. He also said there are water facilities there if the group wanted drinking fountains, restrooms and/or sprinkling. If there was renewed interest and use in the park, he was confident the City would maintain it again. He mentioned it is a Brownfield area and, therefore, eligible for grant monies.

Mr. Janshen and Mr. Goff warmed to the Milwaukee Park suggestion and said they would take the idea back to their group for discussion. They will contact Chairperson Galbraith when they are ready to schedule another meeting.

### **2. Fence Encroachment on City Right of Way at 805 S. Custer**

Brandon Kelm, 805 S. Custer, approached the Committee to request an encroachment of 10 feet on Comstock to erect a chain link fence. He explained they have two large dogs and two young children. He distributed pictures showing the sides of the house and the proposed fence.

There was discussion about whether installing a six-foot sidewalk would place the property in the flood plain. Flood Plain Administrator Samantha Malenovsky, who was in the audience, reassured him that installing the sidewalk would not necessitate flood insurance for his property.

*\*\* Committee Member Hollowell moved to recommend approving the encroachment on City right-of-way on 805 S. Custer, with the stipulations that the fence would have to be removed if the City were to have need of it and that a six-foot sidewalk would be installed sometime in the future. The motion was seconded by Committee Member Andrews and, on roll call vote, passed unanimously, 3-0.*

### **Request of Citizens**

There were no requests of citizens.

### **ADJOURNMENT**

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

The meeting was adjourned at 7:25 p.m.

Respectfully Submitted:

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Susanna Galbraith, Chairperson

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Connie L. Watts, Recorder

## Public Safety Committee Meeting June 25, 2013

The Public Safety Committee met Tuesday, June 25, 2013, at 6:00 pm in the City Hall Conference Room. Present were Chairperson Dwayne Andrews and Committee Members Sue Galbraith, John Hollowell and Jerry Partridge. Also present were Police Chief Doug Colombik, Councilperson Mark Ahner and Committee Recorder/Deputy City Clerk Connie Watts.

Chairperson Andrews brought the meeting to order.

### Request to Remove two Stop Signs on Strevell Street at the Intersection of Strevell/Comstock

Councilperson Ahner addressed the Committee regarding the four-way stop signs on Strevell at the Comstock intersection. He said that since Stower Street has been put through to Haynes, it has taken a lot of traffic from Comstock. He has heard requests from people that use Strevell as a north/south route to remove the stop signs on Strevell at that intersection, while keeping the two on Comstock. He feels that this would allow traffic to flow more freely. Police Chief Colombik also felt it would be a good idea.

\*\* *Committee Member Partridge moved to recommend removing the two stop signs on Strevell at the Comstock/Strevell intersection, seconded by Committee Member Galbraith. On roll call vote, the motion passed by unanimous consent, 4-0.*

### Request for a Stop Sign at Palmer and 12<sup>th</sup> Street

Chairperson Andrews said he had been contacted by an individual who had almost been hit on his motorcycle at that intersection, and felt it needed a stop sign. During discussion, the committee members noted that it is a wide street with good visibility, and there is another stop sign at Montana and Sacred Heart. Chief Colombik said that a stop sign can't be put up at an intersection every time there is almost an accident.

\*\* *Committee Member Hollowell moved to recommend installing a stop sign at Palmer and 12<sup>th</sup> Street, seconded by Committee Member Galbraith. On roll call vote the motion failed, with all Committee Members voting no.*

### Request for a Reduced Speed Limit on Wells Street

Ken Gardner, 406 Wells Street, submitted a petition "signed by every property owner on Wells Street and supports this action." He reported that he has for many years watched people turning off the dike road onto Wells going way too fast. The Committee discussed

speed bumps and speed dips (which can increase liability to the City), closing the dike road before that exit onto Wells, and reducing the speed limit.

*\*\* Chairperson Andrews moved to recommend installing a 15-mph speed limit on Wells Street at the intersection of the Dike Road. The motion was seconded by Committee Member Galbraith and, on roll call vote, passed unanimously, 4-0.*

Chairperson Andrews asked Mr. Gardner to contact him again in a few months if this does not solve the problem.

### **Resolution for Liability Insurance for "Events" on City Property**

The Treasurer's office is asking for clarification by the Council regarding the criteria for events that would need liability insurance when reserving a shelter and/or when obtaining an alcohol permit. A letter from the City Attorney in the committee packets addressed this issue, but he was not able to attend this meeting,

*\*\* Committee Member Hollowell moved to table the issue until the City Attorney would be able to be present. The motion was seconded by Committee Member Andrews and, on roll call vote, passed unanimously, 4-0.*

### **Sidewalk Adjacent to the Grind, in Front of the Vacant Lot, is in Need of Repair**

Chairperson Andrews had received emails on this issue. Committee Member Hollowell said the Public Works Department has the authority to force repairs on sidewalks, and suggested this be brought to the attention of Acting Director Al Kelm.

### **ADJOURNMENT**

*\*\* Having no more business to come before the Committee, Committee Member Galbraith moved to adjourn the meeting, seconded by Committee Member Hollowell and passed unanimously, 4-0. The meeting was adjourned at 6:45 p.m.*

Respectfully Submitted:

Public Safety Committee Chairperson:

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Connie L. Watts, Recorder

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Chairperson Dwayne Andrews

## Human Resources Committee

July 2, 2013

The **Human Resources Committee** met Tuesday, July 2, 2013, at 6:00 p.m. in the Conference Room at City Hall. Present were Committee Chairperson John Uden and Committee Members Bill Melnik and Mark Ahner. Also present were Engineering Secretary Dianna Larson, 283A President Tom Speelmon, Public Utilities Director Al Kelm, Public Works Director Scott Gray, Police Chief Doug Colombik and Committee Recorder HR/Payroll Officer Billie Burkhalter. Committee Member Roxanna Brush was absent.

**1. Roll Call**

- Noted above

**2. Review Position Description for Engineering and Operations Clerk/Receptionist**

Engineering Secretary Larson explained that she is once again requesting the Human Resource Committee to update her job description, as her current 1994 description is outdated and does not reflect her numerous additional duties.

Chairperson Uden questioned Secretary Larson on what changes this would entail to her hourly rate if she had an updated job description. Secretary Larson responded that a year ago, after the Wage and Benefits Survey, she had contacted the Cities listed on the survey, and the following is what she was told a position like hers makes: Whitefish-10 year employee \$24.57 an hour, Livingston- 20 year employee, like her, \$19.53 an hour, and Glendive- 14 year employee \$18.69 an hour. Chairperson Uden questioned what Secretary Larson's current hourly rate is and she responded \$18.09. HR/Payroll Officer Burkhalter noted that Secretary Larson's base is \$17.14; her twenty year longevity brings her to \$18.09.

Committee Member Ahner explained that the updated job description and her compensation were two different issues. Chairperson Uden agreed.

Committee Member Ahner stated, in looking through the position description and the duties, he would recommend the title of "Public Works-Public Utilities Office Clerk/Receptionist".

Chairperson Uden pointed out that Secretary Larson is doing the noticing and minutes for the Zoning and Planning Board Committees, which can result in overtime as the meetings are conducted outside of business hours. He stated one of the problems that is facing the City is the cost of overtime and questioned if those committees could take care of their own duties. Chairperson Uden questioned Director Kelm if what Secretary Larson does for these boards is necessary. Director Kelm stated he would recommend that if they did not want her doing those duties, then they needed to contact the Chairperson of those committees and see if they are willing to take that on as part of their responsibilities. Director Kelm explained that Secretary Larson completing the



agendas and minutes of those meetings is an asset, as she can field and answer questions from the members as well as the public, which makes things run smoother. Director Kelm further informed the Committee that as far as Secretary Larson's overtime, she is paid approximately less than 10 percent out of the general fund and the additional two hours a month of overtime is pretty minimal. Secretary Larson added that she has approximately 8 to 10 hours a year of overtime.

Committee Member Ahner stated he thought the revised job description as presented was good, and everything the Committee had requested had been completed. Secretary Larson pointed out that she did have one more revision to it and that would be to have the Public Works Director as her immediate supervisor, now that they have a Director in place. The Committee was in agreement.

*\*\* Committee Member Ahner moved to recommend changing the position description from immediate supervisor "Public Utilities Director" to "Public Works Director". Motion seconded by Chairperson Uden, and, on roll call vote, motion passed unanimously.*

*\*\* Committee Member Ahner moved to make the position title "Public Works/Utilities Office Clerk/Receptionist". Motion seconded by Committee Member Melnik.*

Director Kelm stated he approved of the revised position description as there are a lot of extra duties that are being done now. He explained that both the Public Works and Public Utilities Directors are administrative positions and that's why they came up with the Administrative title, because she will assist both Directors. Chairperson Uden stated at some point they would need to move her directly under the supervision of the Public Works Director but since it is both Works/Utilities, that means she carries on the work for both departments. Secretary Larson stated the recommended title is almost the same as it was in 1994, with Utilities added. Her position is not just a clerk/receptionist. She does do those duties, but she has a lot of additional administrative duties as well. Committee Member Ahner stated he sees the position more as an office clerk/receptionist position and doesn't feel it completely fits administrative duties. Director Kelm listed off several duties that are in the position that he feels are administrative duties.

*\*\*On original motion, on roll call vote, motion passed unanimously*

*\*\* Chairperson Uden moved to approve the revised job description, as presented and amended, be approved by the Committee. Motion seconded by Committee Member Ahner.*

Committee Member Ahner requested the HR/Payroll Officer to contact MMIA about reviewing the new job description.

*\*\*On original motion, on roll call vote, motion passed unanimously*

### **3. Review Supervisory Rank Restructuring of Police Dept.**

Chairperson Uden explained Police Chief Colombik had presented the Committee with a letter requesting a restructuring of the Police department. Chief Colombik explained that last year there was a restructuring of his department with two Captains and a Detective Lieutenant. The employee who was the Detective Lieutenant was deployed to Afghanistan shortly after this, and when he returned he resigned. Chief Colombik explained from that time he has watched his department struggle with call load and investigations. He stated he realized that his department did not need a Detective Lieutenant to do investigations, but needed more Sergeants to lead his inexperienced patrol officers. In 2006 there were 3 Administrators and 4 Sergeants; his current roster still has 3 Administrators, but only 2 Sergeants supervising the same or more officers. Chief Colombik stated he doesn't want to fill the Detective position, as he already has two Captains that do investigations. He would like the Committee to consider removing this position and replacing it with two Sergeant positions, or at the very least one.

Chairperson Uden explained that Chief Colombik is not proposing hiring two new officers but promoting two current field officers to sergeants. Chief Colombik stated this is to restructure the department, not a request for more officers or money.

Chief Colombik handed out statistics of the department's felony case load, noting that in 2012 they had a record number of felony cases that were investigated and turned over to the County Attorney for prosecution. He went into detail on how much work and time is needed to conduct search warrants. He explained that in the last two weeks they have had to deal with 3 sex abuse cases which did not include the child pornography case that came in 3 weeks ago. Currently there are 39 felonies. Chief Colombik handed out several other statistics to show the Committee how busy the department is.

Chairperson Uden stated when he retired from the police force he had recommended that the Assistant Chief be empowered with detective duties and to put another officer on the street as a supervisor, but this wasn't done. He explained with young officers a lot of the time they are not going to listen to a senior officer if they are not a Sergeant with authority because there is not a rank structure. Chairperson Uden stressed that it is important to have a supervisor on the field to guide the younger officers in making appropriate decisions.

Committee Member Ahner stated with the first budget meetings the general fund showed an imbalance of \$600,000, and everyone recognizes that there are going to be reductions someplace. He stated the Mayor is seriously contemplating not filling the vacant position of Detective Lieutenant and saving \$67,500.

Committee Member Ahner questioned how many confirmed officers Chief Colombik wanted to promote to a sergeant rank. Chief Colombik replied he would prefer 2 but at the very minimum 1.

Chairperson Uden questioned if Chief Colombik was paying two officers at a shift commanders pay when a sergeant was not on shift. Chief Colombik replied that the City is paying sergeant pay to any officer who is in charge on a shift, regardless of their title, when sergeants aren't working. This means a probationary officer could be the shift

commander, which could lead to liability issues.

Committee Member Ahner explained with the changes made last spring to the police department it will cost the City an additional \$150,000 to fund the department in basically wages and benefits. The Council understood this, as they were trying to prevent the revolving door of officers and trying to get more stability and continuity in that department. He asked that, if the Committee agrees to the requested restructuring, can Chief Colombik assure them, the Council and the public, that eliminating the Detective Lieutenant position and promoting 2 officers to a sergeant's level there will not be an increase in costs. Chief Colombik stated yes he felt confident that costs would not go up with one sergeant but cannot make that assurance with 2. He explained that officers get additional shift commanders pay when a sergeant is not on shift, but their normal wage is lower, and therefore, the roll-up costs are less. Chairperson Uden stressed that Chief Colombik is not hiring any additional officers and is cutting approximately \$67,000. He is just requesting to promote 2 officers who are already on the payroll and increasing their pay to a sergeant's rank.

The Committee felt there would still be a savings to the department with the promotion of two officers. Chief Colombik stated he does have vacancy savings in his department and was informed that a recent vacant officer's position would be frozen. Chairperson Uden stated that Chief Colombik was already giving up his Detective position and did not want to see his department give up any more street officers.

*\*\* Chairperson Uden moved to recommend to the City Council to authorize the Police Chief to promote two field grade officers to the rank of Sergeant. Motion seconded by Committee Member Ahner and, on roll call vote, motion passed unanimously.*

**4. Request of Citizens**

-None

**5. Committee Members' comments**

-None

**6. Adjournment**

*\*\* Chairperson Uden moved to adjourn the meeting. The motion was seconded by Committee Member Ahner and passed.*

The meeting was adjourned at 7:15 p.m.

Respectfully submitted,

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Billie D. Burkhalter, Recorder

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Chairperson John Uden



FEMA

# Biggert Waters Flood Insurance Reform Act of 2012

## Impact of National Flood Insurance Program (NFIP) Changes

**Note: This Fact Sheet deals specifically with Sections 205 and 207 of the Act.**

In 2012, the U.S. Congress passed the Biggert Waters Flood Insurance Reform Act of 2012 which calls on the Federal Emergency Management Agency (FEMA) and other agencies to make a number of changes to the way the NFIP is run. Some of these changes have already been put in place, and others will be implemented in the coming months. Key provisions of the legislation will require the NFIP to raise rates to reflect true flood risk, make the program more financially stable, and change how Flood Insurance Rate Map (FIRM) updates impact policyholders. The changes will mean premium rate increases for some – but not all -- policyholders over time.

### What this means:

The new law encourages Program financial stability by eliminating some artificially low rates and discounts. Most flood insurance rates will now move to reflect full risk, and flood insurance rates will rise on some policies.

Actions such as buying a property, allowing a policy to lapse, or purchasing a new policy can trigger rate changes. You should talk to your insurance agent about how changes may affect your property and flood insurance policy. There are investments you and your community can make to reduce the impact of rate changes. And FEMA can help communities lower flood risk and flood insurance premiums.

### What is Changing Now?

Most rates for most properties will more accurately reflect risk. Subsidized rates for non-primary/secondary residences are being phased out now. Subsidized rates for certain other classes of properties will be eliminated over time, beginning in late 2013. There are several actions which can trigger a rate change, and not everyone will be affected. It's important to know the distinctions and actions to avoid, or to take, to lessen the impacts.

Not everyone will be affected immediately by the new law – only 20 percent of NFIP policies receive subsidies. Talk to your agent about how rate changes could affect your policy. Your agent can help you understand if your policy is impacted by the changes.

- Owners of subsidized policies on **non-primary/secondary** residences in a Special Flood Hazard Area (SFHA) will see 25 percent increase annually until rates reflect true risk – began January 1, 2013.
- Owners of subsidized policies on **property that has experienced severe or repeated flooding** will see 25 percent rate increase annually until rates reflect true risk – beginning October 1, 2013.
- Owners of subsidized policies on **business/non-residential properties in a Special Flood Hazard Area** will see 25 percent rate increase annually until rates reflect true flood risk -- beginning October 1, 2013.

*(Each property's risk is different. Some policyholders may reach their true risk rate after a couple years of increases, while other policyholder increases may go beyond five years to get to the full risk rate required by the new law. Rate tables on true risk will not be available until June 2013.)*

**Primary residences** in SFHAs will be able to keep their subsidized rates unless or until:

- The property is sold;

- The policy lapses;
- You suffer severe, repeated, flood losses; or
- A new policy is purchased.

### Grandfathering Changes Expected in 2014

The Act phases-out grandfathered rates and moves to risk-based rates for most properties when the community adopts a new Flood Insurance Rate Map. If you live in a community that adopts a new, updated Flood Insurance Rate Map (FIRM), grandfathered rates will be phased out. This will happen gradually, with new rates increasing by 20% per year for five years.

### What Can Be Done to Lower Costs?

For home owners and business owners:

- Talk to your insurance agent about your insurance options.
- You will probably need an Elevation Certificate to determine your correct rate.
- Higher deductibles might lower your premium.
- Consider incorporating flood mitigation into your remodeling or rebuilding.
  - Building or rebuilding higher will lower your risk and could reduce your premium.
  - Consider adding vents to your foundation or using breakaway walls.
- Talk with local officials about community-wide mitigation steps.

For community officials:

- Consider joining the Community Rating System (CRS) or increasing your CRS activities to lower premiums for residents.
- Talk to your state about grants. FEMA issues grants to states, which can then distribute the funds to communities to help with mitigation and rebuilding.

### Background:

In 1968, Congress created the National Flood Insurance Program (NFIP). Since most homeowners' insurance policies did not cover flood, property owners who experienced a flood often found themselves financially devastated and unable to rebuild. The NFIP was formed to fill that gap and was designed to incorporate community adoption of minimum standards for new construction and development to minimize future risk of flood damage. Pre-existing homes and businesses, however, could remain as they were. Owners of many of these older properties were eligible to obtain insurance at lower, subsidized rates that did not reflect the property's true flood risk.

In addition, as the initial flood risk identified by the NFIP has been updated, many homes and businesses that had been built in compliance with existing standards have received discounted rates in areas where the risk of flood was revised. This "Grandfathering" approach prevented rate increases for existing properties when the flood risk in their area increased.

After 45 years, flood risks continue and the costs and consequences of flooding are increasing dramatically. In 2012, Congress passed legislation to make the NFIP more sustainable and financially sound over the long term.

## **Questions about the Biggert-Waters Flood Insurance Reform Act of 2012**

### **1. What is the Biggert-Waters Flood Insurance Reform Act of 2012?**

Answer: The Biggert-Waters Flood Insurance Reform Act of 2012 (BW-12) is a law passed by Congress and signed by the President in 2012 that extends the National Flood Insurance Program (NFIP) for five years, while requiring significant program reform. The law requires changes to all major components of the program, including flood insurance, flood hazard mapping, grants, and the management of floodplains. Many of the changes are designed to make the NFIP more financially stable, and ensure that flood insurance rates more accurately reflect the real risk of flooding. The changes will be phased in over time, beginning this year.

### **2. Why was the Biggert-Waters Reform Act of 2012 passed?**

Answer: Flooding has been, and continues to be, a serious risk in the United States—so serious that most insurance companies have specifically excluded flood damage from homeowners insurance. To address the need, in 1968 the U.S. Congress established the NFIP as a Federal program. It enabled property owners in participating communities to purchase flood insurance if the community adopted floodplain management ordinances and minimum standards for new construction. However, owners of existing homes and businesses did not have to rebuild to the higher standards, and many received subsidized rates that did not reflect their true risk.

Over the years, the costs and consequences of flooding have continued to increase. For the NFIP to remain sustainable, its premium structure must reflect the true risks and costs of flooding. This is a primary driver for many of the changes required under the law.

## **Insurance Cost/Rate Questions**

### **3. What changes to insurance operations are anticipated?**

Answer: Many of the proposed changes are designed to increase the fiscal soundness of the NFIP. For example, beginning this year there will be changes addressing rate subsidies and a new Reserve Fund charge will start being assessed. There are also provisions to adjust premium rates to more accurately reflect flood risk.

Other provisions of the law address coverage modifications and claims handling. Studies will be conducted to address issues of affordability, privatization, and reinsurance, among other topics.

### **4. Will all policyholders see changes in insurance rates as a result of BW-12?**

More than 80 percent of policyholders (representing approximately 4.48 million of the 5.6 million policies in force) do not pay subsidized rates.

About 20 percent of all NFIP policies pay subsidized rates. Only a portion of those policies that are currently paying subsidized premiums will see larger premium increases of 25% annually starting this year, until their premiums are full-risk premiums. Five percent of policyholders – those with subsidized policies for non-primary residences, businesses, and severe repetitive

loss properties - will see the 25% annual increases immediately. . Subsidies will no longer be offered for policies covering newly purchased properties, lapsed policies, or new policies covering properties for the first time.

The 80% of all NFIP policies that already pay full-risk premiums will not see these large premium increases. Most policyholders will see a new charge on their premiums to cover the Reserve Fund assessment that is mandated by BW-12. Initially, there will be a 5% assessment to all policies except Preferred Risk Policies (PRPs). The Reserve Fund will increase over time and will also be assessed on PRPs at some undetermined future date.

Additional changes to premium rates will occur upon remapping, the provision calling for these premium rate changes will not be implemented until the latter half of 2014.

**5. In general, which properties will be most affected by changes in rates?**

Answer: Rate changes will have the greatest effect on properties located within a Special Flood Hazard Area (SFHA) that were constructed before a community adopted its first Flood Insurance Rate Map (FIRM) and have not been elevated. For many communities the initial FIRM would have been adopted in the 1970's and 1980's. Your local insurance agent will be able to provide you the initial FIRM date for your community.

Many of these pre-FIRM properties have been receiving subsidized rates. Subsidies are already being phased out for non-primary residences. Starting this fall, subsidies will be phased out for businesses; properties of one to four residences that have experienced severe repetitive loss; and properties that have incurred flood-related damages where claims payments exceed the fair market value of the property. Premiums for these properties will increase by 25% per year until they reach the full risk rate.

Subsidies are not being phased out for existing policies covering primary residences. However, the subsidy provided to primary residences could still be lost under conditions that apply to all subsidized policies. Subsidies will be immediately phased out for all new and lapsed policies and upon sale of the property. There may also be premium changes for policyholders after their community is remapped. But that provision of the Act is still under review and will be implemented in the future.

**6. What happens if a policy with subsidized rates is allowed to lapse or the property is sold?**

Answer: Starting this fall, for all currently subsidized policies, there will be an immediate increase to the full risk rates for all new and lapsed policies and upon the sale/purchase of a property. Full risk rates will be charged to the next owner of the policy.

**7. What does "full risk rate" actually mean?**

Answer: Simply put, it means that the premium reflects both the risk assumed by the program (that is, the expected average claims payment) and all administrative expenses. In the case of

flood insurance, this means the premium takes into account the full range of possible flood losses, including the rare but catastrophic floods as well.

**8. How can someone find out what a property's full risk rate will be?**

Answer: Of the many factors that determine the full risk rate of a structure, the single most important is the elevation of the structure in relation to the Base Flood Elevation (BFE). A community's Flood Insurance Rate Map (FIRM) indicates the area of the community that has a 1% or greater annual chance of flooding. That area is called the Special Flood Hazard Area, or high-risk zone. Put another way, the BFE is the elevation where there is a 1% or greater annual chance of flooding. For a property in the high-risk zone, you need to know the elevation of the structure in relation to the BFE. Generally, the higher the elevation above the BFE, the lower the flood risk. The information is shown on an Elevation Certificate, which is a form completed and signed by a licensed engineer or surveyor. So to determine the premium for a property in a high-risk zone, you first need an elevation certificate. Then, an insurance agent can calculate the premium based on the amount of coverage desired.

**9. What percentage of policies nationwide, and in high risk zones, actually receives these subsidized rates?**

Answer: More than 80 percent of policyholders (representing approximately 4.48 million of the 5.6 million policies in force) do not pay subsidized rates. About 20 percent of all NFIP policies pay subsidized rates. However, only 5 percent of policyholders – those subsidized policies covering non-primary residences, businesses, and severe repetitive loss properties - will see immediate increases to their premiums.

**10. When will NFIP Grandfathering be eliminated?**

Answer: Currently, the NFIP Grandfather procedure provides eligible property owners the option of using risk data from previous Flood Insurance Rate Maps (FIRMs) if a policyholder maintained continuous coverage through a period of a FIRM revision or if a building was constructed "in compliance" with the requirements for the zone and BFE reflected on a previous FIRM. A provision of BW-12, however, requires FEMA to use revised flood risk data (zone and BFE) after a map revision. The legislation provides a 5-year mechanism to phase-in the new rates. This provision impacts the NFIP Grandfather procedure and will be implemented in the latter half of 2014. Many of the precise details of this implementation are still under development.

**11. Is there any option for people who are now in a flood zone, did not have substantial damage, but now the BFE is 10 feet higher than previously and face dramatic rate increases?**

Answer: FEMA's Hazard Mitigation Assistance (HMA) HMA programs provide funds for projects that reduce the risk to individuals and property from natural hazards. These programs enable mitigation measures to be implemented before, during, and after disaster recovery. Local jurisdictions develop projects that reduce property damage from future disasters and submit



grant applications to the State. The States submit applications to FEMA based on State criteria and available funding. The HMA programs include:

- Hazard Mitigation Grant Program (HMGP) - The Hazard Mitigation Grant Program provides grants to implement long-term hazard mitigation measures after a major disaster declaration. The purpose of HMGP is to reduce the loss of life and property due to natural disasters and to enable mitigation measures to be implemented during recovery from a disaster.
- Flood Mitigation Assistance (FMA) - The Flood Mitigation Assistance program provides funds on an annual basis so that measures can be taken to reduce or eliminate risk of flood damage to buildings insured under the NFIP.
- Pre-Disaster Mitigation Program (PDM) - The Pre-Disaster Mitigation Program provides nationally competitive grants for hazard mitigation plans and projects before a disaster event. States can receive PDM funds regardless of whether or not there has been a disaster declared in that state.

FEMA encourages property and business owners interested in implementing mitigation activities to contact their local community planning, emergency management, or State Hazard Mitigation Officer for more information. Individuals and businesses may not apply directly to the State or FEMA, but eligible local governments may apply on behalf of a private entity. Your community will be working with the State to develop applications for HMA funding and implement the approved mitigation projects. Information about the HMA programs can be found at <http://www.fema.gov/hazard-mitigation-assistance>.

## Miles City Flood Control Study Minutes

May 1, 2013

Attendees: Lawrence Siroky (DNRC), Traci Sears (DNRC), Bill Rothenmier (EPA), Molly Sullivan (KLJ), Laurel Hamilton (USACE), Roger Kay (USACE), Tiffany V (USACE), Justin Brewer (USACE), Eric L (USACE), Greg Johnson (USACE), Randy Boehm (USACE), Mayor Grenz, Public Utilities Director Allen Kelm, Floodplain Administrator Samantha Malenovsky, Grant Writer Dawn Colton, Joel Paulsen (KLJ), Carl Jackson (KLJ), Matt Korgen (KLJ), Gus Byrum (CDBG).

The purpose of this meeting is to understand how the USACE will be involved, should we build a dike or other flood related structure. The funding is one of the key issues, and getting all the funding institutes together such as CDBG (Community Development Block Grant), Brownfields, USACE (United States Army Corps of Engineers) helps us understand how the funding programs can work.

The City has selected KLJ (Kadamas, Lee, and Jackson) to perform a feasibility study on flood control measures concerning the dike system. The City is now looking at financial assistance through multiple grant programs. We are looking into USACE programs to see how they can work with the flood control project.

Greg stated that there was a project that was envisioned for Miles City that was actually authorized for construction back in the 40's. The project died, and then regained some steam in the 70's, and the community chose not to go forward with the acquisition of real estate. USACE projects, by and large, are all developed in partnership with a local non-federal sponsor. The projects (unless reservoir projects) are turned over to that sponsor for ownership, operation, and maintenance once constructed. The sponsor is required to acquire the land interest that is needed for the project footprint. In the 70's the community didn't have the resources to go forward with it, and the project ended up stumbling, then never got built. The USACE has met with the community many times on what is the path forward, with a levee system that has had many different agencies (Works Progress Admin., various community interests) involved with the construction. The levee system went through an inspection in the mid-90s in an effort to become eligible in the PL 8849 program for non-federal private levees, which are contributing to the public good. The levee needs to meet certain criteria such as providing a minimum of a 10-year level of protection, and has to have certain minimal design criteria with cross-section, compaction, materials, set-back, side-slopes, etc. If it meets this criterion, then it can be in the program, and if it suffers damage during a flood, the federal government will come in and help repair it on a cost-share of 75% Federal, 25% non-Federal. If it's a Federal levee, then the government pays for 100% of it up to 10 years. The current levee has deficiencies such as vegetation, set-back, and many others. The levee is currently viewed as not very reliable, and is deemed not to be up to the standards of being certifiable.

For the USACE to get involved in a project they will need authority and funding. The only standing authorities they have that don't take Congressional action are the continuing authorities programs, Section 205 and Section 22. In Greg Johnson's opinion, Section 205 is not applicable to the Miles city situation. It's a program where the USACE comes in and develops a 205 feasible study partnered with the community to come up with a flood risk solution, then can go into the design and construction of that flood risk solution without having to go back to Congress to get the construction authorized. The construction is pre-authorized with a 205 study. The reason 205 is not the greatest solution (in Greg's personal opinion) is there is a federal per project limit of \$7 million (construction is cost shared 65/35) which translates to about a \$10.5 million total project cost. The USACE did a preliminary assessment

back in 2005, and it was believed that construction would be considerably more 10.5 million. The other issue the City faces with a Section 205 is we wouldn't be able to leverage the benefits from the Tongue project and use them on the Yellowstone project. The benefits from the Tongue River to justify a project on the Tongue may or may not jeopardize the future ability to justify benefits on the Yellowstone, since the risk has been reduced on the Tongue River. The 205 feasibility study is initiated at \$100,000 (non-cost shared). Anything over that is a 50/50 cost-share for the study; again, the construction is cost shared 65/35 up to a \$10.5 million total project.

A traditional USACE project (General Investigation, GI) is one in which Congress authorizes the USACE to do a study and Congress appropriates money for the USACE to do the study. Those are still cost shared, but appropriated in a different manner. Each individual study is a line item in the federal budget, which Congress can either add or subtract money at their discretion and the USACE goes through their budget process to see how those projects rank on a national scale. A USACE GI study has reams of guidance they have to follow in terms of types of analysis, level of detail and various elements that have to be included in the study. The USACE tries to evaluate alternatives and select a plan to justify for federal funding. The GI study goes back to Congress, which uses that study to authorize a project for construction. Money is then appropriated for the construction of the project. So, there can be a lag between the completion of the GI study and the actual construction which, depending on when Congress takes up the authorization bill, that lag can be between 2-10 years. The nice thing about going this route (in Greg's option) is that the project and/or study can be shaped around whatever Congress wants you to look at. If a community is contemplating a large scale project, such as \$20 million, this is really the only route to look at.

Section 22 is a technical assistance program where USACE provides technical assistance related to water resources such as erosion, floodplain management, floodplain management development, recreation studies and flood warning system development. Cost share is 50/50, very flexible, and easy to amend in terms of the scope. This report can be used at a federal and state level to help locate and receive grant monies for the project. It can be a useful tool to approach the Congressional powers so they can see what is being proposed and the difficulties that face our community with the hope of obtaining their support on the project being proposed.

The USACE GI feasibility study is one used by Congress to authorize a project for construction, whereas the study produced by KLJ will help the community make a decision on choosing the option that will help lower insurance rates and reduce the size of the floodplain on the Flood Insurance Rate Map.

There was a 205 study done between 2005-2007 which contained a lot of technical data. Included were alternatives, cost-benefits, cost of construction, doing the project as a whole or in pieces, such as separating the Tongue project from the Yellowstone. Greg Johnson said that he could find that 205 report. He stated the 205 studies were done with a reconnaissance or preliminary assessment study to help determine if it was feasible, then a complete GI feasibility study would be done. He believed the benefit cost ratio on the Tongue River section was 6:1; the benefit to the community was approximately \$29 million with a \$6-5 million levee. He stated there were a lot of public members that weren't in favor because they felt only the people along the Tongue, would be helped, those along the Yellowstone would not. Greg was more than happy to share this preliminary 205 study with KLJ and the City. He did state the Hydrology and Hydraulics data has changed since 2005.

Greg encouraged the city to utilize the natural benefits that Miles City has, and instead of putting a big wall between the town and the river, use the alternative of producing a set-back levee system and

developing green space between the river and the levee system like Grand Forks. He said the green space that Grand Forks now has is the identity of the community. Having some buffer in between will be a help when a major event occurs. The bluffs to the north of Miles City, which when a big flood event occurs, will cause the water to overtop the banks of the levee, which is the weak link.

When USACE randomly comes to inspect the levee, it ensures that the City is keeping up on its maintenance to conform to regulations. If the levee suffers damage during a flood event, the USACE will come in and fix it. If there is a lack of maintenance within the levee and its structures and one of those structures fails under a flood event, the federal government and the USACE will not provide replacement or repair on those items.

The partnership agreement between USACE and the City will spell out the cost of the project, along with the cost share of the different elements. Construction is usually 65/35, and recreation features could be 50/50. It could also incorporate work in-kind, where the community could do construction or services in-kind as part of the process. This would be reflected in the partnership agreement. The in-kind can't be done upfront; everything has to be done after the signing of the agreement. The conduct of the USACE feasibility study is a partnership. The federally recommended plan is the plan that produces the maximum net benefits, and USACE can also recommend a locally preferred plan. The local community sponsor may select any plan with a BC ratio above 1 that costs less than the federal plan. Any plan the sponsor wants that has a BC ratio greater than 1 or is more than the federal plan needs to have an analysis to determine whether or not that added increment is totally non-federal or if there's a way to justify that increment as being part of a better comprehensive plan. There is a hyperlink that the USACE uses as guidance to perform its feasibility studies that Greg was willing to send KLJ.

Greg suggested the option of starting a Section 22 now, and if KLJ's study has items in its report that can be used as in-kind service, which would go towards a match of grant dollars. This would get the USACE started now instead of the City doing something now and the USACE having to re-evaluate the work to see if it would comply with the Section 22. The Section 22 study can lead us into the Section 205 or GI study, depending on the value of the construction. Once the feasibility study is done and approved, the USACE can go right to construction with a Section 205, whereas with GI you need Congressional approval, which can be a lengthy process.

The GI's cost share is 50/50 for the feasibility study and 65/35 for flood risk management and ecosystem restoration, and 50/50 for recreation. The USACE projects are funded almost exclusively, so most of the civil works budget which is flood risk reduction, ecosystem restoration, operation and maintenance is appropriated by Congress as individual projects. Historically, it's been virtually impossible to get a new start feasibility study and General Investigation study through the USACE budget process and so almost all new studies came in through Congressman or Senators as earmarks. He believes now there may be a chance to get this study done due to revamping and restructuring of Congress (by removing earmarks) and the USACE (by streamlining and limiting the dollar amount of studies) by finishing up some of these legacy studies and projects that have been going on for decades and costing millions of dollars.

Miles City meets a lot of the criteria which is needed in flood risk projects to receive funding, such as number of structures in floodplain (2771 floodplain structures/3565 total structures), population at risk, depth of flooding (varies from a few inches to many feet), velocity of flooding and flood warning times (ice jams are very unpredictable). The hurdle that we faced in the past couple of years in Congress is saying no to new studies. If they open the window to new studies in the future, Greg is optimistic that we will be considered due to the risk factors that the community faces.

Greg recommended we contact our Senators and inform them of the situation affecting Miles City. It means more coming from a local perspective than from a federal one. If the city chooses to do a feasibility study with the USACE, Greg would budget us in his FY15/16 budget if he makes the 2015 President's budget and Congress appropriates the monies for that budget year. If this deadline is met with a GI feasibility (not Section 22) study, the funding for that project could become available October 1<sup>st</sup> 2014. When the President releases his budget in February of 2014, we will know if the city's GI feasibility study is included in the U.S. study. So, in the meantime, we could start a Section 22 feasibility study with the USACE and KLJ. The USACE would work with us and KLJ to put together a scope of work, and a letter of agreement could be signed within a matter of weeks. Greg thinks he would put some money aside for a Section 22 study and could potentially start on it in July.

The community may want to go with a higher level of protection above what the minimum standards are now, just in case FEMA decides to change the regulations and require a higher amount of freeboard, or other standard. We would then still be certifiable in the future and would not have to go through this process again. A lot of times a levee is built to 100-year protection, then the regulations change and the levee doesn't meet that level of protection. When a levee is originally built by the USACE they captured all the benefits but, there's little benefit left when the regulations change, and it's very hard to achieve the benefit-cost ratio that is required for federal dollars. Therefore, communities need to go out on their own and bring the levee up to new regulations. When those standards change, the USACE will do the reviewing, but the total cost is the community's to bear, such as building a levee system that provides a 200 to 500-year protection instead of only 100-year protection.

When the levee system is constructed by the USACE, at the end of the construction process the USACE will produce a Letter of Map Revision (LOMR) through the community which they will submit to FEMA to change the FIRMs (Flood Insurance Rate Maps). USACE does a certification (called a National Flood Insurance Program Levee System Evaluation Report). Then FEMA accredits the report and USACE stands behind that evaluation for 10 years. If at any time after those 10 years FEMA comes back to the City and says that it needs to re-certify, the cost of the levee is handled 100% by the City.

As far as CDBG is concerned, the grants we are looking at applying for are good as long as there is a benefit for low to moderate income homes, and CDBG grant monies can be used as an in-kind match. The planning grant is not open yet, but they anticipate those funds becoming available in the near future. The Brownfields phase 1 study would not contribute as in-kind to the USACE feasibility study. If there are any hazardous sites of concern within the footprint of the system, the City would have to cover that cost, and the clean-up is not an in-kind match. However, the City's purchase of the property would be in-kind. The EPA Brownfields would need to supply a letter certifying that their funds could be used as a cost share match against Federal Corp funds, which Greg suspects they wouldn't be able to do. The information that is collected from the Brownfields study could be data that the USACE and KLJ could use to cut the bottom line cost.

To recap, we are planning to go forward with a Section 22, Notice of Interest has been submitted, and have KLJ work with the USACE to continue with the study that was initially proposed. This study will go toward our in-kind match with the Section 22. After the Section 22 study and KLJ's study are completed, we would present those findings to the public and council. During this study time we will possibly apply for a GI study in hopes of appropriations from Congress. At best, this will fall within federal FY15. The USACE would get together with KLJ to review the scope of work to see what needs to be done to make sure that the two studies complement each other; the two agencies would share information to ensure

that data is not being duplicated. The timing on the Section 22 is depending on the allocation of money for the remainder of the year. The USACE would like to get into sync with KLJ on the scope of work and have the contract agreement signed. The USACE believes they could have this done within a month, depending on funds available.

Also discussed was the Silver Jackets Action plan concerning the floodplain and the preparedness of an emergency in case of a flooding incident. We are currently working with the USACE and DNRC on this plan. This will be done in hopes that the comprehensive emergency plan will give us CRS points to apply to our Class rating in providing discounts for flood insurance premiums.

Return To:  
City of Miles City, Montana  
P.O. Box 910  
Miles City, MT 59301

**RESOLUTION NO. 3614**

**A RESOLUTION GRANTING A REVOCABLE LICENSE TO BRANDON KELM FOR A FENCE ENCROACHMENT UPON CITY OF MILES CITY RIGHT OF WAY FOR COMSTOCK STREET FOR THE BENEFIT OF LOTS 18 THROUGH 20 IN BLOCK 17 OF THE HIGHLAND PARK ADDITION TO THE CITY OF MILES CITY, COMMONLY KNOWN AS 805 SOUTH CUSTER AVENUE.**

*WHEREAS*, Brandon Kelm has made application for an encroachment upon the right of way of Comstock Street adjacent to the following described real property located in Miles City, Custer County, Montana owned by Brandon Kelm and Angela Kelm:

Lots 18, 19 and 20 in Block 17 of the Highland Park Addition to the City of Miles City, Custer County, Montana according to the plat and survey thereof on file in the office of the Clerk and Recorder of Custer County, Montana, commonly known as 805 South Custer Avenue.

*AND WHEREAS*, such encroachment consists of a fence to be constructed approximately six (6) feet west of the back of the existing curb on the southerly edge of Comstock Avenue;

*AND WHEREAS*, the City Council finds that the granting of a revocable license for such encroachment, pursuant to certain terms and conditions, is advisable.

**NOW THEREFORE, IT IS RESOLVED BY THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA AS FOLLOWS:**

It does hereby authorize and grant to Brandon Kelm a revocable license to erect and maintain a chain link fence, less than six (6) feet in height, on Lots 18, 19 and 20 of Block 17 of the Highland Park Addition to the City of Miles City, Custer County, Montana, commonly known as 805 South Custer Avenue, that encroaches upon the City of Miles City right of way, subject to the following terms and conditions:

1. The fence shall be placed approximately six (6) feet south of the back of the existing curb on the southerly edge of Comstock Street, leaving room so that a sidewalk may be installed in the future;
2. The final location and height of the fence are subject to the review and final approval of the Public Works Director of the City of Miles City;
3. The licensee shall maintain the fence in good and sightly condition at all times;
4. All construction and maintenance of the fence shall be at licensee's expense;
5. This license shall terminate and licensee shall, at licensee's expense, completely remove the fence from the City of Miles City right of way and restore the location of the fence to compacted, level grade, upon ninety (90) days advanced written notice to licensee by the City of Miles City
6. This license shall be recorded with the Clerk and Recorder for Custer County, Montana, and shall run with the above described real property, subject to the terms, conditions and right to terminate provided herein, and licensee shall pay to the City Clerk the recording cost of \$14.00.

**SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY  
CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY,  
MONTANA, THIS 9th DAY OF JULY, 2013.**

\_\_\_\_\_  
C.A. Grenz, Mayor

ATTEST:

\_\_\_\_\_  
Lorrie Pearce, City Clerk