

**REGULAR COUNCIL MEETING November 28, 2017
7:00 p.m.**

CALL TO ORDER

The Regular Council meeting was held Tuesday, November 28, 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, Dwayne Andrews, Ken Gardner, John Uden, Rick Huber, Jeff Erlenbusch and Kathy Wilcox. Councilperson Susanne Galbraith was excused.

Also present were City Attorney Dan Rice, Public Works Director Scott Gray, Public Utilities Director Allen Kelm, Police Chief Doug Colombik, Acting Fire Chief Branden Stevens, Planner II Dawn Colton, Flood Plain Administrator/Auto Cad/Assistant PWPV Samantha Malenovsky, 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: 11/14/2017

****** *Councilperson Uden moved to approve the minutes of the Regular Council Meeting of November 14, 2017, subject to any changes, and seconded by Councilperson Erlenbusch. The motion passed by unanimous consent, 7-0.*

Flood Committee Minutes: 11/15/2017

**Flood Control Committee
November 15, 2017**

The **Flood Control Committee** met Wednesday, November 15 2017, at 6:00 p.m. in the City Hall Conference Room. Present were Committee Chair Jeff Erlenbusch, Committee Members: Ken Gardner, Rick Huber and Brant Kassner.

Also present were: Floodplain Administrator Samantha Malenovsky, Mayor John Hollowell and Committee Recorder Ally Capps.

1. Request of Citizens/Public Comment:

-None-

2. Committee Members Comments:

-None-

3. Unfinished Business

Discussion and Recommendation to council; Ordinance 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.

****** *Committee Member Kassner moved to open the discussion on Ordinance 1316, Seconded by Committee Member Huber.*

Chairperson Urlenbusch commented he would like to see the change in Ordinance allowing Council the final say in a floodplain variance. This would need Council to be willing to have training and input from professionals, so informed discussions can be made and in accordance with city, state and federal codes.

Committee member Gardner would like to see the training implemented and after the training see if Council feels confident in making the final decision on floodplain variances. The other thought was to have the Board of Appeals hear the floodplain variance request and then send their recommendation to Council for the final decision.

Floodplain Administrator Malenovsky has talked to Traci Sears from the Department of Natural Resources, the training proposed will take an hour and half to two hours. The thought was to have Council come in early for a council meeting and to have the training before the meeting.

PROCEEDING OF CITY COUNCIL

MILES CITY, MONTANA

Training will encompass; variance procedure, how it works and how the decision will affect the community. The proposed date for training is set for January 23, 2018, time yet to be determined.

The Mayor read a portion of the minutes from the Board of Appeals meeting regarding the Boards concerns on the infraction by (FEMA) Federal Emergency Management Agency.

Their minutes states, "The impact on the community's flood insurance is an insignificant issue". Knowing how this affects the Community System Rating Points it could be a costly increase for flood insurance. Mayor Hollowell voiced his concern on the Board of the Appeals attitude towards the Community. He asked the Board of Appeals to reconsider their approval of the variance in question. The Board of Appeals Chairperson Rock Wankel has not responded to the Mayor regarding the variance. Mayor Hollowell will send out another invitation to the Board of Appeals for the next council meeting.

** *Committee Member Kassner motioned to send Ordinance 1316 to Council for further review, seconded by Committee Member Gardner and passed, 3-1. With Committee Member Huber voting no.*

4. **New Business**

Discussion regarding the Stafford Act Section 404 Funding.

Floodplain Administrator Malenovsky explained the Stafford Act Section 404 Funding is a letter to send to our Congress and Senators representatives for help reducing the risk of disasters before they occur. Using money in a preventive manner before the flood, wildfire or hurricanes happen. For Miles City, this would affect eighty percent of the population that are located in the natural floodplain or in the floodway. Section 404 Funding could be utilized to repair or replace a substandard levee, or improve internal drainage, drastically reducing substantial loss should a flood occur. Floodplain Administrator Malenovsky asked if a letter were drafted, would the Flood Committee be opposed to having the letter go before Council to sign.

** *Committee Member Kassner moved to accept the Stafford Act Section 404 go to Council for signatures, seconded by Committee Member Gardner and passed unanimously, 4-0.*

Adjournment

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

There being no further business, the Committee adjourned at 6:58 p.m.

** *Councilperson Uden moved to approve the minutes of the Flood Committee Meeting of November 15, 2017, subject to any changes, and seconded by Councilperson Gardner. The motion passed by unanimous consent, 7-0.*

Public Safety Committee Minutes: 11/21/2017

Public Safety Committee Meeting November 21, 2017

The Public Safety Committee met Tuesday, November 21, 2017, at 6:00 pm in the City Hall Conference Room. Present were Committee Chairperson Ken Gardner and Committee Members John Uden and Jeff Erlenbusch. Committee Member Brant Kassner was excused.

Also present were: City Clerk/Recorder Lorrie Pearce

Chairperson Gardner called the meeting to order.

1. Request of Citizens

None

2. Committee Member Comments

Chairperson Gardner said he would like to discuss the Ordinance on noxious weeds. The committee would not be able to vote on anything since it was not on the agenda. The following items were discussed:

- The Ordinance is modeled after Glendive's and is very effective there
 - Section 15-5, "unsightly appearance", should it be changed to public nuisance. After a long conversation the census was to keep it as is.
- Committee Member Uden noted that the Ordinance covers weeds and grass only. It does not cover any buildings, vehicles, or other items that are considered unsightly

PROCEEDING OF CITY COUNCIL
MILES CITY, MONTANA

- Chairperson Gardner and Committee Member Erlenbusch had talked to Code Enforcer Winkley about taking on additional duties. Enforcer Winkley explained that he was already sending registered letters for other nuisance problems, and did not feel that it would add a lot to his plate. He said that he uses the Cadastral to find most of his information. Clerk Pearce said she talked to Attorney Rice and he said that the Ordinance could be changed to Cadastral records, but explained the Cadastral records are not always current and a title report is the best method. She called the title company and was given an approximate price of \$200
- Change "city employees" in Section 15-14 (a) to Public Works Director. Change "city personnel" in Section 15-14 (i) to Office of City Clerk. Add the "Office" after city clerk in Section 15-14 (j). Change "city personnel" in Section 15-14 (l) to Office of Public Works. Change "city personnel" in Section 15-14 (m) to Office of City Clerk. Change "city personnel" in Section 15-14 (p) to Office of City Clerk
- All members were concerned as to how the City would pay for the enforcement and what fund the money would come out of. The census was to pay for the enforcement out of the parks fund. Since the enforcement will be in the parks busiest season, it was suggested to contract out the weed trimming and mowing. Clerk Pearce said that it looked like the process would take around 100 days and cost would be approximately \$380 per enforcement, which does not include the cost of cleanup and disposal if needed. Chairperson Gardner said it would be paid back to the City through a special assessment on their taxes. If the assessment was not paid within three (3) years the City could put a lien against the property

Chairperson Gardner said there were a couple of items that need to be addressed at the next meeting.

1. Resident complaint on parking of vehicles in the Garfield School area
2. Establish an Ordinance on cell phones

3. Review and make recommendation on Ordinance 1317- An Ordinance Revising Zoning Code Sections 24-90, 24-91 and Article V (Definitions), so as to Call for Review of Conditional Use Permits by City Council

Chairperson Gardner pulled the Ordinance from the agenda, explaining the Ordinance was not supposed to be on the agenda.

4. Adjournment

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

The meeting was adjourned at 7:00 p.m.

** *Councilperson Gardner moved to approve the minutes of the Public Safety Committee Meeting of November 21, 2017, and seconded by Councilperson Erlenbusch. The motion passed by unanimous consent, 7-0.*

SCHEDULE MEETINGS

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

- Human Resource: Thursday, December 7th @ 5:15 p.m.
- Finance: Thursday, December 7th @ 6:00 p.m.
- Zoning: Thursday, November 30th @ 5:15 p.m.

REQUEST OF CITIZENS & PUBLIC COMMENT

South Eastern Montana Economic Development representative Jim Atchison thanked the Mayor and Council for membership renewal, and presented a certification of appreciation plaque. He also recapped issues that were top priority of the attendees at the Comprehensive Economic Development Strategy meeting (CEDS) held in Miles City. They were; #1- Marketing of City of Miles City, #2- Flood and #3-VA study. Also SEMEDC will be celebrating its 20th anniversary the end of December.

PROCEEDING OF CITY COUNCIL
MILES CITY, MONTANA

APPOINTMENTS

Urban Renewal Agency Board of Commissions- Echo Gaskill

** *Councilperson Uden moved to approve the appointment of Echo Gaskill to the Urban Renewal Agency Board of Commissions, seconded by Councilperson Andrews. On roll call vote, the motion passed by unanimous consent, 7-0.*

Miles City Planning Board Member- Alex Evans

** *Councilperson Erlenbusch moved to approve the appointment of Alex Evans to the Miles City Planning Board and seconded by Councilperson Gardner. On roll call vote, the motion passed by unanimous consent, 7-0.*

Mayor Hollowell swore in Echo Gaskill to the Urban Renewal Agency Board of Commissions, and Alex Evans to the Miles City Planning Board.

PROCLAMATIONS

None

STAFF REPORTS

Samantha Malenovsky- Showed Council four pictures that were given to the City by Silver Jacket Signs, which is a multi-agency partnership.

Dan Rice- After consulting with other City Attorneys, he has discovered that the City had adopted abatement for condemned. This means the process does not have to go to court for a ruling and if the City chose it could demo a building after 30 days if the owner does not reply to abatement letter. The City would need a special fund and it would take years to get reimbursed if taxes were not paid on the property.

Al Kelm- Reported the Phase II project at the Wastewater Treatment Plant is winding down.

Branden Stevens- There are two firefighter positions still open, interviews will be this weekend. Once filled in January, the overtime should decrease. Promotional positions for the Captain and Lieutenant will start January 18th. Three new firefighters finished the academy and are now working shifts. Annual Toy for Tots fund raiser is scheduled December 9th. EMT training is planned to start the first of February.

CITY COUNCIL COMMENTS

John Uden- Read an article in the Miles City Star that said Miles City was in the running for a beef processing plant, which could employ up to three thousand people. He thought the city should be proactive on the project. After a brief discussion, it was discovered that the Miles City Star had retracted that number to three hundred. He also thought that Riverside Park should be renamed to Dr. Maurice Helliman Memorial Park, and asked that the Public Service Committee look into it.

Rick Huber- Noticed several items in the park were painted and looked nice.

MAYOR COMMENTS

Explained that the appointment for the Fire Chief will be at the next Council meeting. The internal application process was too long to get it on the present agenda.

STANDING COMMITTEE RECOMMENDATIONS

Flood Committee- Council Members to sign a letter addressed to two (2) State Senators and one (1) Congressman for the State of Montana

** *Councilperson Uden moved to approve signing the letter addressed to two state senators and one congressman for the state of Montana and mailing to Washington D.C., and seconded by Councilperson Wilcox. On roll call vote, the motion passed by unanimous consent, 7-0.*

BID OPENINGS

None

BID AWARDS

None

PUBLIC HEARINGS

None

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

Councilperson Andrews thought the Board of Appeals had the right to vote on the variance, and it would add one more layer of responsibility to Council that was not necessary.

Councilperson Erlenbusch said that the City had been set to task with working on the dike to help citizens save money on insurance. The laws, rules and regulation set by FEMA have to be adhered to. The City is being looked at as an example for other communities as to the way it handles our process and to handle it correctly. With the Section 205 the city needs to follow all rules and regulations. If it does the City receives more points and with more points, it saves the residents money on flood insurance. He felt it is the responsibility of the Council to make sure that the process is done correctly.

Councilperson Gardner said there will be training on January 23, 2018 and felt that Council should attend.

BOA Chairperson Rock Wankel said flood plain variances are much more challenging than other variances. He said the City may or may not have a Board of Appeals. With the Ordinance passage it would take the decision out of the Board of Appeals hands completely, and stated that the board is qualified to handle the flood variance decisions. He reviewed the variance again and felt confident that a correct decision was made on the variance in question.

Attorney Rice felt that no matter what Council decides on the Ordinance that there should always be a staff report from the Floodplain Administrator that goes through the variance criteria. The flood plain administrator could deny an application but recommend a variance as long as the criteria was met. It should never be adversarial between the floodplain office and the review of the variance. He had no problem with who was reviewing it, but that a good staff report is written to show a cooperative effort between whoever is reviewing the variance.

** *Councilperson Wilcox moved to call to question, seconded by Councilperson Kassner. The motion passed 6-1 with Councilperson Huber voting no*

** *On roll call vote, the motion passed 4-3, with Councilpersons Huber, Uden and Andrews voting no Ordinance No. 1316 passed.*

PROCEEDING OF CITY COUNCIL
MILES CITY, MONTANA

NEW BUSINESS

A. **RESOLUTION NO. 4116: A Resolution Adopting Findings of Fact and Approving the Amended Plat for the Purpose of Boundary Line Relocation of Lots 6-8 and Amended Lot 9 in Legion Addition No. 2 to the City of Miles City, Montana**

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

Planner Colton said that 11G Farms should be added in the resolution after Squatters Knob LLC.

** *Councilperson Wilcox moved to approve the additional wording, and seconded by Councilperson Erlenbusch.*

** *On roll call vote, the amended motion passed by unanimous consent, 7-0*

** *The original motion passed 7-0- Resolution No. 4116 passed*

B. **RESOLUTION NO. 4117: (First Reading) A Resolution Pursuant to s7-6-4006 of the Montana Code Annotated, Authorizing Amendment in Final Budget for FY 2017-2018 to Increase the Budgeted Amount in Water Funds # 5210-22-430530-940, 5210-23-430550-940 and 5210-80-430540-940**

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

Director Kelm explained that the expenses were not inputted into the budget, but had been presented to finance committee during budget.

** *On roll call vote, the motion passed by unanimous consent, 7-0.*

C. **Approval on Installation of a Traffic Mirror at the Corner of Stower St., Missouri Ave., South Montana and South 8th Street**

** *Councilperson Wilcox moved to approve the installation of a traffic mirror at the Corner of Stower St, Missouri Ave, South Montana and South 8th Street, and seconded by Councilperson Gardner.*

Councilperson Uden had concerns that the sun may cause a problem to drivers.

Director Gray said the mirror is converting and will face the North and did not think the sun would reflect off it. He added, the lady who requested the mirror will buy it and the City will pay for the shipping and installation. He recommended that if the mirror does not work, the City should reimburse the donor.

** *On roll call vote, the motion passed by unanimous consent, 7-0.*

D. **Approval for Planner Colton to proceed with and carry out the strategies presented to Council**

** *Councilperson Wilcox moved to approve Planner Colton to proceed with and carry out the strategies presented to Council, and seconded by Councilperson Erlenbusch. After a long discussion, the motion passed by unanimous consent, 7-0*

E. **Discussion on Regular Council Meeting December 26, 2017**

After a short discussion, it was decided that there would be a quorum present for the December 26, 2017 meeting.

F. **Approval on Record Disposal**

** *Councilperson Wilcox moved to approve the record disposal that was presented and seconded by Councilperson Huber. On roll call vote, the motion passed by unanimous consent, 7-0.*

ADJOURNMENT

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

The meeting was adjourned at 8:45 p.m.



John Hollowell, Mayor



Lorrie Pearce, City Clerk