

**REGULAR COUNCIL MEETING February 27, 2018
7:00 p.m.**

CALL TO ORDER

The Regular Council meeting was held Tuesday, February 27, 2018, in the Council Chambers in City Hall, 17 S. 8th Street, Miles City, Montana. Mayor John Hollowell called the meeting to order. Council Members present were Jeff Erlenbusch, Dwayne Andrews, Ken Gardner, John Uden, Rick Huber, Kathy Wilcox and Susanne Galbraith. Councilperson Brant Kassner was excused.

Also present were City Attorney Dan Rice, Public Utilities Director Tom Speelmon, Police Chief Doug Colombik, Fire Chief Brandon Stevens, Planner II Dawn Colton Historic Preservation/TIF Administrator Connie Muggli 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: 2/13/2018

** *Councilperson Galbraith moved to approve the minutes of the Regular Council Meeting of February 13, 2018 and include changing under request of citizens lots 33-34 to 28-32, and seconded by Councilperson Gardner. The motion passed by unanimous consent, 7-0.*

SCHEDULE MEETINGS

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

- Finance Committee: Thursday, March 8th @6:00 p.m.
- Human Resource Committee: Thursday, March 1st @ 5:15 p.m.
- Public Safety Committee: Thursday, March 8th @5:30 p.m.

REQUEST OF CITIZENS & PUBLIC COMMENT

Resident Dawn Kanduch, 715 Cheyenne thanked the Mayor for having a tour at City Hall which included a home school group. She said with talking to the employees it was evident that City Hall had a good working environment.

APPOINTMENTS

Leif Ronning-Planning Board

** *Councilperson Galbraith moved to approve the appointment of Leif Ronning to the Planning Board, seconded by Councilperson Gardner and passed unanimously.*

Rock Wankel- Historic Preservation Commission- 3 years

** *Councilperson Erlenbusch moved to approve the appointment of Rock Wankel to the Historic Preservation Commission for a 3 year term, seconded by Councilperson Huber and passed unanimously.*

Jeff Erlenbusch- Historic Preservation Commission- 3 years

** *Councilperson Uden moved to approve the appointment of Jeff Erlenbusch to the Historic Preservation Commission for a 3 year term, seconded by Councilperson Gardner and passed unanimously.*

PROCLAMATIONS

None

STAFF REPORTS

Chief Stevens recognized Tanner Harbaugh as one of the new Captains. He said Mr. Harbaugh has been with the City for two years and is a veteran of the Iraq and Afghanistan war.

Director Speelmon spoke for Administer Malenovsky on Section 205 in kind match:

- \$49,301.44- Work in Kind from September to January
- \$87,912.97- Total work in kind for the project as to date
- \$337,912.97- Total work in kind and cash contribution as to date

CITY COUNCIL COMMENTS

Councilperson Uden recognized Flood Administer Malenovsky for helping out in the absence of Director Gray. There was an undriveable street because of snow which served a family that had serious medical problems. A crew was out there that afternoon and it was cleared. He also commended Director Gray and his crew for the great job on snow removal. Every street in Miles City was plowed and the snow has been removed as well.

MAYOR COMMENTS

Mayor reported the following:

- City Clerk reported that InterCap loans will be going from 2.5% to 3.15%, City is looking into consolidating some loans, and the Website purchase is on hold
- South Eastern Montana Development Corporation helped Cowtown Ag receive a \$40,000 grant from Big Sky for job creation and a \$25,000 grant with a \$25,000 low interest loan
- Thanked Administrator Muggli for her years of service to Historic Preservation, TIF and the City. She is retiring and Rock Wankel will handle the Historic Preservation issues and Todd Gillette will handle the TIF issues. She had sent in the BNSF occupancy permit but had not heard back from them.
- Police has 15 employees
- Library has flooded twice this season, the Supervisor knows what the issue is, but cannot take care of it at the moment
- Tom Speelmon explained that funding for loans and grants are not looking good from the State. The South Gate water tank is settling and will need repairs. Director Speelmon responded saying it is settling and if moved it may leak. Looking at bolting the tank down in the meantime.
- There had been three water breaks this season
- Dispatch Supervisor Anderson reported that calls are up due to weather
- BLM reports that the fire season should be the same as last year, but will begin later in the season

COMMITTEE RECOMMENDATIONS

Send \$27,947.41 to collections for ambulance charge offs

- ** *Councilperson Uden moved to approve sending \$27,947.41 to collections for ambulance charge offs, seconded by Councilperson Galbraith and passed unanimously.*

Send \$1,752.95 to collections for water/sewer charge offs

- ** *Councilperson Gardner moved to approve sending \$1,752.95 to collections for water/sewer charge offs, seconded by Councilperson Galbraith and passed unanimously.*

BID OPENINGS

PROCEEDING OF CITY COUNCIL

MILES CITY, MONTANA

Bids received for new 4-wheel drive ambulance
Two bids were received:

Osage for a total of \$282,000
Agger for a total of \$286,735

** *Councilperson Uden moved to approve the bid from Osage for an amount of \$282,000, seconded by Councilperson Gardner*

** *Councilperson Galbraith moved to send to Finance Committee, seconded by Councilperson Wilcox and passed 5-2 with Councilperson Andrews and Uden voting no.*

Bids received for Wibaux Park Fountain

Bid was extended until April

BID AWARDS

None

PUBLIC HEARINGS

A. **ORDINANCE NO. 1321- An Ordinance Amending Ordinance 1294, and Revising the Urban Renewal District Boundary to Include Full Parcels Split by Original Boundaries**

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

B. **ORDINANCE NO. 1322- An Ordinance Revising Sections 23-28, 23-29, and 23-33 of the Code of Ordinances of the City of Miles City, Montana, so as Revise Provisions Regarding Curb Stop Maintenance, Meter Replacement Fees, and Service Line Materials**

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

C. **RESOLUTION NO. 4127- A Resolution Pursuant to §7-6-4006 of the Montana Code Annotated, Authorizing Amendment of Final Budget for FY 2017-2018 to Increase the Budgeted Amount in the General Fund for Various Unbudgeted Expenditures**

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. 1321- (Second Reading) An Ordinance Amending Ordinance 1294, and Revising the Urban Renewal District Boundary to Include Full Parcels Split by Original Boundaries**

** *Councilperson Andrews moved to approve the Ordinance, read by title only, seconded by Councilperson Wilcox and, on roll call vote, passed, 7-0. Ordinance No. 1321 was adopted.*

B. **ORDINANCE NO. 1322- (Second Reading) An Ordinance Revising Sections 23-28, 23-29, and 23-33 of the Code of Ordinances of the City of Miles City, Montana, so as Revise Provisions Regarding Curb Stop Maintenance, Meter Replacement Fees, and Service Line Materials**

** *Councilperson Uden moved to approve the Ordinance, read by title only, seconded by Councilperson Huber and, on roll call vote, 7-0 Ordinance No. 1322 was adopted.*

C. **RESOLUTION NO. 4127- (Second Reading) A Resolution Pursuant to §7-6-4006 of the Montana Code Annotated, Authorizing Amendment of Final Budget for FY 2017-2018 to Increase the Budgeted Amount in the General Fund for Various Unbudgeted Expenditures**

** *Councilperson Gardner moved to approve the Resolution, read by title only, seconded by Councilperson Galbraith and, on roll call vote, passed unanimously, 7-0. Resolution No. 4127 was adopted.*

NEW BUSINESS

A. Discussion of current and future raffles

Mayor Hollowell read a letter written by him explaining that he mourned with and is saddened from the tragedy in Florida. The raffle issue is not about gun control or gun rights, but rather that an individual, although we may not necessarily agree with the medium, put his community before himself. Is this something we should stop? That is what the Council and Mayor chose to support. I say, God bless all those who pursue such a cause of action of selflessness.

Councilperson Galbraith disclosed that an e-mail was sent to all Council members responding to an e-mail from Chief Colombik concerning the issue. She thought maybe the prize could be a gift certificate.

Councilperson Uden asked for the letter from the Department of Justice be inserted into the minutes. He explained that the letter states the Police Department is within its rights to conduct a raffle and is not in violation existing law or Ordinance.

STATE OF MONTANA
DEPARTMENT OF JUSTICE
GAMBLING CONTROL DIVISION

2550 Prospect Avenue, P.O. Box 201424, Helena, Montana 59620-1424

Tim Fox
Attorney General

Telephone: (406) 444-1971
FAX: (406) 444-9157

February 23, 2018

Greeting Mr. Rice:

The Gambling Control Division has been asked to offer guidance on a raffle underway in Miles City. It is not at all uncommon for Montanans to contact this office with questions about gambling regulation in general and raffle rules in particular. We are happy to do so in this instance as well, but please recognize that this is an informal opinion that is put together with a limited understanding of the facts and does not reflect exhaustive legal research. Certainly, this is our best judgment based on the information before us but cannot be considered a formal Attorney General's opinion. Likewise, this office cannot offer legal advice to private groups; persons seeking such advice should consult their own attorney.

With that introduction, here are the facts as I understand them through discussions with you, with Chief Colembik, and by visiting the Miles City Police Department Facebook page:

A private citizen, unaffiliated with a formally organized nonprofit organization, has purchased/paid for a Colt M4 .223 caliber firearm at Red Rock Sporting Goods, Inc. in Miles City, which is a licensed federal firearms dealer. The same citizen donated the firearm to the Miles City Police Department, so they could utilize the prize in their current raffle, to which they are the sponsor of.

After the winner is drawn through a random selection process, that person will be required to go to Red Rock Sporting Goods, Inc. and go through a proper background check to take receipt of the advertised raffle prize. Only individuals capable of purchasing a firearm would be permitted to accept the winning prize.

Tickets are advertised as being available at various locations in and around Miles City, to include the Police Department and Dispatch center. Proceeds from the sale of raffle tickets are being recorded by the City of Miles City in a special line item. The terms of the raffle indicate that the winner will be drawn and announced on February 27, 2018 during the City Council meeting.

Other than Department of Justice employees directly involved with the prosecution, investigation, regulation, or licensing of gambling, as designated by the Attorney General, Montana law has no restrictions on individuals or public offices conducting a raffle as sponsors. Mont. Code Ann. § 23-5-114(1). Subject to other laws that might apply to public officials' conduct, Montana has no laws prohibiting public employees' participation in raffle sales or

PROCEEDING OF CITY COUNCIL
MILES CITY, MONTANA

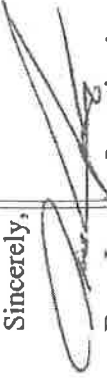
purchases. A person or organization conducting a raffle is required to own their prizes before the sale of any tickets. The value of each prize awarded for an individual ticket for a raffle conducted by a person or an organization may not exceed \$5,000. These provisions do not apply to a nonprofit organization, a college, a university, a public-school district as provided in MCA § 20-6-101 and MCA § 20-6-701, or a nonpublic school as described in 20-5-102(2)(e). No Montana statute or rule prohibits raffling a firearm. See MCA § 23-5-413; Mont. Admin. R. § 23.16.2601.

Anyone sponsoring or assisting with a raffle should be familiar with other applicable statutes and rules. For instance, (with some exceptions) minors may not participate in gambling activities which includes raffles. MCA § 23-5-158. Credit gambling is prohibited so credit cards cannot be used to purchase raffle tickets. MCA § 23-5-157, Mont. Admin. R. § 23.16.202. Again, with certain exceptions, raffle sales may not occur outside of Montana or over the Internet. § 23-5-413. Raffle sponsors must disclose all raffle terms and must maintain records for 12 months. Raffle sponsors must present raffle records to the Department of Justice, Gambling Control Division, upon request. § 23.16.202. Like all other forms of regulated gambling, violations of Montana law may result in civil or even criminal penalties.

In sum, so long as the raffle sponsor complies with all applicable statutes and rules, this raffle appears to be lawful. As such issues are beyond its authority, the Gambling Control Division takes no position on the propriety of a city government's participation in, or affiliation with, such a raffle.

If this office can be of any further assistance you are welcome to contact me.

Sincerely,



Dave Jesentz, Investigations Chief
Gambling Control Division
2550 Prospect Ave.
Helena, MT 59620
406-444-9130

Attachments included

Supporting documents:

1. Copy of raffle ticket

No.0462

Name _____
Address _____
Phone _____

Miles City No.0462
Police Department
Rifle Raffle
Copies Center



\$25 each - Only 500 tickets will be sold.
Drawing will be held February 27, 2018
at the City Council Meeting.
Must be 21 or over to win.
The rifle from the proceeds of the raffle
will be used to fund the K9 program.

2. Raffle advertising #1 on MCPD Facebook page 2/23/18



MILES CITY POLICE DEPARTMENT
RIFLE RAFFLE



Colt M4 223 Caliber Rifle

Tickets are \$25 each. Only 500 tickets will be sold. Tickets are available at Tubbs/Montana Bar, Miles City Police Department and the Dispatch Center. The drawing for this rifle will be held on February 27, 2018 at the City Council Meeting at 7:00 pm. Ticket holders do not need to be present to win. Funds raised from this raffle will be used to start up a K9 program to combat the increasing drug issues in the community.

3. Raffle advertising #2 of MCPD Facebook page 2/23/18



Miles City Police Department

Like This Page · January 10

The Miles City Police Department will be selling raffle tickets for four firearms. The first raffle will be for a Colt M4 .223 rifle. The purpose of the MCPD trying to raise funds is to start up a K9 program and focus on the drug issues we are all facing in the community. The increasing problems with illegal drugs affects us all in one way or another. We have had several K9's in the past however all were older dogs when we received them. Due to officers leaving and dogs being retired out we never firmly established a K9 unit here. This will change. With enough funds raised we will purchase a young trained narcotic dog, cover the training costs for the officer, equipment and a newer vehicle to start this program up.

Tickets are available at the Police Department or the Dispatch Center located behind the Courthouse. A special line item account has been set up with the City of Miles City for this fundraising. For those out of town, you can purchase tickets by mailing a check to MCPD, 210 S. Winchester, Miles City, MT 59301. We are only a month away from our first drawing and still have plenty of tickets to sell!

Councilperson Gardner felt that the law allows the transfer of a firearm to an individual that has passed a proper background check. With that said he supports the raffle of the AR and individual that entered the raffle expects to win the AR.

Mayor Hollowell invited resident Joe Whalen 611 North Lake to speak. Mr. Whalen expressed his disappointment that the raffle is going forward. He stated that if Council felt the police department needed a canine that there were other ways to accomplish it. He mentioned three (3) options to exercise instead of the raffle: 1) The canine should have been in the budget before it was finalized, 2) A Public Safety levy could have been sponsored, 3) the Interlocal agreement with the drug task force could have been renegotiated to share the expenses. He felt there were other options than raffling a gun that is a weapon of choice in many mass shootings.

Resident Jeff Williams 1611 Tompy Street explained that he paid for the gun and donated it to the raffle because he wanted to help the City and Police Department to purchase items necessary to do their jobs. He will be donating four (4) guns for four (4) raffles which are not intended to be a gift certificate. He would like the Council to vote by a majority to give the gun away, not a gift certificate. Guns do not cause the problem of mass shooting, it is a social fabric issue. Limiting guns is not the solution. He hoped that the Council would approve the guns that he has chosen for the raffles.

Councilperson Uden thanked Mr. Williams for the interest of the welfare and betterment of the Police Department.

Councilperson Andrews said that he would like in the future to see a hunting rifle or a shot gun issued for the raffles.

B. Drawing of raffle
Scott Carter won the raffle

C. RESOLUTION NO. 4130 A Resolution Requesting Distribution of Bridge and Road Safety and Accountability Program Funds

****** *Councilperson Uden moved to approve the Resolution, read by title only, seconded by Councilperson Galbraith and, on roll call vote, passed unanimously, 7-0.*

D. RESOLUTION NO. 4131- (First Reading) A Resolution Approving an Application for Tax Exemption and Reduction for Remodeling, Reconstruction or Expansion of Existing Commercial Buildings or Structures for 1885 Properties, LLC

****** *Councilperson Galbraith moved to approve the Resolution, read by title only and to revise Exhibit A, seconded by Councilperson Huber and, on roll call vote, passed unanimously, 7-0.*

E. RESOLUTION NO. 4132- A Resolution Establishing Maurice R. Hilleman Complex, Encompassing Stanley Field, Pumping Plant Park, Waterworks Art Museum, the Miles City Water Plant, and the Miles City Law Enforcement Shooting Range

****** *Councilperson Wilcox moved to approve the Resolution, read by title only, seconded by Councilperson Gardner and, on roll call vote, passed unanimously, 7-0.*

PROCEEDING OF CITY COUNCIL
MILES CITY, MONTANA

F. RESOLUTION NO. 4133- A Resolution Authorizing the Assignment of a Certain Lease Agreement and Option to Purchase Between the City of Miles City and United Parts and Supply, LLC to Ailport Properties Montana, LLC, for the Lease and Purchase of Parcel 1 of the Anderson Tract, Tract "E" of the Industrial Site West of Miles City

** Councilperson Uden moved to approve the Resolution, read by title only, seconded by Councilperson Huber and, on roll call vote, passed unanimously, 7-0.

G. RESOLUTION NO. 4135- (First Reading) A Resolution Pursuant to §7-6-4006 of the Montana Code Annotated, Authorizing Award of an Urban Renewal Agency Direct Grant for Infrastructure Improvements to the City Public Works Department, and Amendment of Final Budget for FY 2017-2017 to Increase the Budgeted Amount in Fund 2510-107-460235-230

** Councilperson Gardner moved to approve the Resolution, read by title only, seconded by Councilperson Erlenbusch and, on roll call vote, passed unanimously, 7-0.

ADJOURNMENT

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

The meeting was adjourned at 8:20 p.m.


John Hollowell, Mayor


Lorrie Pearce, City Clerk