

REGULAR COUNCIL MEETING November 13, 2018

6:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, November 13, 2018, 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, Kathy Wilcox and Susanne Galbraith.

Also present were Public Works Director Scott Gray, Police Chief Doug Colombik, Fire Chief Branden Stevens, Historic Preservation/TIFD Officer Louise de Montigny, Flood Plain Administrator/Auto Cad/Assistant PWPV Samantha Malenovsky, Battalion Chief Mike Miller, Payroll/Accounts Payable Ally Capps and City Clerk/Minute Recorder Lorrie Pearce.

PLEDGE OF ALLEGIANCE

Mayor Hollowell led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 10/23/2018

** *Councilperson Uden moved to approve the minutes of the Regular Council Meeting of October 23, 2018, subject to any corrections, and seconded by Councilperson Huber. The motion passed by unanimous consent, 8-0.*

Human Resource Committee Minutes: 10/18/2018

**Human Resources Committee
October 18, 2018**

The **Human Resources Committee** met Thursday, October 18, 2018, at 5:30 p.m. in the Conference Room at City Hall. Present were Committee Members Kathy Wilcox, Susanne Galbraith, and Jeff Erlenbusch Excused was John Uden. Also present were Public Works Director Scott Gray, Accounting/Payroll Clerk Ally Capps, Public Utilities Director Tom Speelmon, Mayor John Hollowell, City Judge Kenneth Stein, City Court Clerk Gail Krezelak, Deputy City Court Clerk Nicole Richardson and Deputy City Clerk/HR Officer /Committee Recorder Linda Wilkins. Also present was Custer County Justice of the Peace Don Neese.

Committee Chairperson Kathy Wilcox called the meeting to order.

1. Request of Citizens
None
2. Committee Member Comments
None
3. Discussion of Deputy City Court Clerk Position Hours Budget Cut
 - Judge Stein: Presented to the Committee a package including a comparison of cash receipts vs cash disbursements of the City Court and a list of job duties of the clerks of the court. He pointed out to the committee that the court's revenues have been adequate to cover the court's expenses. He stated revenues should not be a determining factor in the day to day functions of City Court. With the current workload of the Court he finds it necessary to have two Court Clerks, plus it makes for good collections of court fines.
 - Judge Neese: There is a high learning curve for a new judge. He commented it would be bad timing to cut staff for the City Court; it would have an adverse effect on the day to day operations of the Court.
 - Committee Member Galbraith: When reviewing the claims this month, she noticed that usage of You Tube and Facebook was 50.12 GB of data. She phoned MidRivers to ask them how much time this would equate to from the information given her she calculated the data used would equal approximately 92.81 hours a month on social media. This is of concern.
 - Judge Neese: The county court staff uses social media to perform the duties of their office.
 - City Court Clerk Krezelak: She stated that they do use social media for similar purposes and have used You Tube to listen to music.
 - Judge Neese: There was discussion in his office regarding using the computer to listen to music and he asked his staff to not use computers in this manner.

- Committee Member Erlenbusch: When he was a member of the Police Department tickets were down and he thought there was a cycle in the amount of tickets written by the Police. He stated that the City can't afford not having sufficient staff in City Court. He thought the City should be proactive and not reactive. He is for maintaining the current staffing in City Court.
- Committee Member Uden: He thought that cutting staff would have an adverse effect. It affects not only the Court, but the Police Department. The new Judge is facing one of the worst financial years there has been, but he is not in favor of cutting staff.

***Committee Member Uden moved that this issue be revisited by the Finance Committee at its earliest convenience, seconded by Committee Member Erlenbusch. On roll call vote the motion passed 4-0.*

4. Review and Approve: Planner I Position Description, with revisions as needed

***Committee Member Uden moved to table the Planner I Position Description until a decision has been made by the Mayor on the current internal application for the position, seconded by Committee Member Erlenbusch. On roll call vote the motion passed 4-0.*

5. Discussion: Civil Engineer Position Description

- Director Gray: Should the City decide to pursue hiring an Engineer, it would result in significant savings in the cost of hiring an outside engineer.
- Director Speelmon: A contracted professional engineer currently costs the City \$170 to \$210 per hour, a surveyor is \$85 to \$125 per hour. There are projects the City would contract with an engineer that could be done by an in house engineer. The savings would be significant even if the City were to pay an in-house engineer a substantial wage.
- Mayor Hollowell: He has concerns over the liability this would put on the City and there are many types of engineers.
- Director Gray: He commented that a Civil Engineer with a stamp would be able to tackle 5 to 6 blocks of infrastructure at a time. The in-house engineer could work on smaller projects. This would lead to slowly taking bits out of the City's infrastructure problems. He thought the current insurance coverage for errors and omissions would probably cover the liability issue. He agrees there needs to be more research on the possibility of hiring an in-house engineer.
- Mayor Hollowell: He wants to make sure the City will get what it needs.
- Chairperson Wilcox: She asked Officer Wilkins to work on formatting the position description and then present to Mayor Hollowell, Director Gray and Director Speelmon for review.

6. Discussion: Wage Scale Development

- Officer Wilkins: Presented to the Committee the wage matrix that had been developed for Local 283A.
- Chairperson Wilcox: Asked Officer Wilkins to develop a similar matrix for the administrative staff of the city.

7. Next Meeting: To be determined

The next HR meeting was tentatively scheduled for Thursday, December 6 at 5:30 p.m.

8. Adjournment

***Committee Member Uden moved to adjourn, seconded by Committee Member Erlenbusch. The motion passed unanimously 4-0.*

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

*** Councilperson Gardner moved to approve the minutes of the Human Resource Committee Meeting of October 18, 2018, and seconded by Councilperson Wilcox. The motion passed by unanimous consent, 8-0.*

Finance Committee Minutes: 11/01/2018

Finance Committee Meeting

November 1, 2018

The Finance Committee met Thursday, November 1, 2018 at 6:00 p.m. in the City Hall Conference room. Present were Committee Chairperson Susanne Galbraith and Committee Members Rick Huber, and Dwayne Andrews. Committee Member Kathy Wilcox was excused.

Also present were: Flood Administrator/Auto Cad/Assistant PWPV Samantha Malenovsky, Fire Chief Branden Stevens, Judge Ken Stein, Mayor John Hollowell, TIFD/HP Officer Louise de Montigny, Deputy Clerk/HR Officer Linda Wilkins, various union representatives and City Clerk/Recorder Lorrie Pearce.

Committee Chairperson Galbraith called the meeting to order.

**1. Request of Citizens:
None**

2. Discussion and recommendation on sending \$ 48,121.28 for Ambulance to collections

*** Committee Member Andrews moved to recommend to Council sending \$48,121.28 to collections, seconded by Committee Member Huber. On roll call vote the motion passed, 3-0*

3. Discussion on additional cuts to General Fund appropriations

Chairperson Galbraith explained that General Fund will be approximately \$300,000 short at the end of the year. It seems every year the expenditures increase and revenue decreases. She explained some of the cuts in the revenue for fiscal year 18/19.

There was a discussion on asking all employees to cut their wages by 3 percent, which would save the City \$76,000. Asking employees to not work 1 hour a week, which would cost the employees in General Fund approximately \$600 a month. Also, there was a discussion on the cost of the flood project to General Fund. In the end, it may come down to layoffs. Nash explained that Union 283-A's proposal was very minimal to the cost of the General Fund. Officer Wilkins explained that the salary survey cost to General Fund was \$1.3M. For fiscal year 18 alone, there was a \$300,000 increase to General Fund. There was a discussion on forming an Ad Hoc Committee. Deputy Clerk/HR Officer Wilkins, Children's Librarian Nash, Judge Stein, Fire Chief Stevens, Court Clerk Krezelak and City Clerk Pearce volunteered to be on the committee. Others interested can notify the City Clerk.

4. Discussion on borrowing \$175,000 from InterCap for flood loan (Expires November 2, 2018)

Administrator Malenovsky did not receive any information from the Army Corp as to when it will need more money. After a short discussion it was decided to call InterCap and ask for another extension.

5. Discussion and recommendation on Resolution No. 4207- A Resolution Approving a Revised Collective Bargaining Agreement Between the City of Miles City and the Local No. 283-B Union

*** Committee Member Galbraith moved to recommend to Council sending Resolution No. 4207, 4208 and 4209 back to the Mayor to discuss cuts, seconded by Committee Member Andrews. The motion passed 3-0*

6. Discussion and recommendation on Resolution No. 4208- A Resolution Approving a Revised Collective Bargaining Agreement Between the City of Miles City and the Local No. 600 Union

7. Discussion and recommendation on Resolution No. 4209- A Resolution Approving a Revised Collective Bargaining Agreement Between the City of Miles City and the Local No. 283-A Union

8. Discussion and recommendation on Resolution No. 4212- A Resolution Approving an Amendment to Group Flexible Purchase Payment Deferred Fix Annuity Contract, and Guaranteed Minimum Interest Rate Change Options Form

Officer Wilkins explained that Nationwide is changing the way it guarantees the minimum interest rate. She talked to Nationwide representative Jared Williams and he explained that the majority of Miles City employees are not invested in fixed assets, so option number 1 would be the best option for the City

*** Committee Member Andrews moved to table the Resolution until Officer Wilkins talks to the Nationwide representative, seconded by Committee Member Huber. The motion passed unanimously, 3-0*

9. Discussion and recommendation on Resolution No. 4213- A Resolution Approving a MMIA Sworn Statement in Proof of Loss Related to Claim for Damage to Fire-Hall

*** Committee Member Galbraith moved to recommend to Council to approve the Resolution, seconded by Committee Member Andrews. After a brief discussion, and on roll call vote, the motion passed 3-0*

10. Adjournment

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

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

*** Councilperson Andrews moved to approve the minutes of the Finance Committee Meeting of November 1, 2018, and seconded by Councilperson Huber. The motion passed by unanimous consent, 8-0.*

SCHEDULE MEETINGS

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

- Public Service: Friday, November 17 @ 6:00 p.m.
- Finance: Tuesday, November 20 @ 6:00 p.m.
- Human Resource: Thursday, December 6 @ 5:30 p.m.
- Closed Council: Tuesday, November 27 @ 5:00 p.m.

REQUEST OF CITIZENS & PUBLIC COMMENT

None

APPOINTMENTS

Dawn Leidholt- Urban Renewal District Board of Commissioners

** *Councilperson Andrews moved to approve the appointment, seconded by Councilperson Erlenbusch and passed unanimously.*

Brad Davis- Confirmed Firefighter

** *Councilperson Uden moved to approve the appointment, seconded by Councilperson Erlenbusch and passed unanimously.*

Ian DeMoney- Confirmed Firefighter

** *Councilperson Erlenbusch moved to approve the appointment, seconded by Councilperson Andrews and passed unanimously.*

PROCLAMATIONS

Mayor Hollowell proclaimed November 24, 2018 as "Small Business Saturday"

STAFF REPORTS

Samantha Malenovsky- After talking with the Army Corps of Engineer as far as the City getting another loan, they said they have about \$510,000 available, so the City will not need to get another loan until FY20. Intercap is looking at extending the \$600,000 loan for another year.

Scott Gray- Talked with Director Speelmon and he feels that they can present to Finance a proposal to free up approximately \$200,000 for next fiscal year. The Strevell/Darling project will open up again late tomorrow afternoon and should be completed on Saturday.

Branden Stevens- The City will know by next September if it is accepted for the AFG grant to purchase a tender truck. If accepted the City's match is \$25,000. Ambulance 28 passed the FEMA grant audit. Still need to find \$11,000 for the SCBA grant from FEMA. Trying to communicate with Prairie County Commissioners to discuss other options in covering its EMS transfers. Housing from TransCanada is on hold after a Judge's ruling on the Keystone XL Pipeline. Training center construction started today and will be finished by the end of the week. Reminded everyone that the 129th annual Miles City Firefighters Toy Dance & Auction is scheduled Saturday, December 15th.

Doug Colombik- Since the beginning of 2018, Officer Winkley has tagged 160 vehicles which resulted in 25 citations. Officer Fetty and K-9 dog Max are back from training.

CITY COUNCIL COMMENTS

Dwayne Andrews- Thanked Directors Gray and Speelmon for finding savings in General Fund.

Rick Huber- Said that an excellent job was done patching the holes in the streets.

John Uden- Asked how the 4th Street BNSF crossing was coming. He felt the crossing is not passable for two vehicles. Mayor Hollowell said he had talked to a BNSF representative yesterday, but it was on installing sidewalks by the crossing.

MAYOR COMMENTS

Asked Council what it wanted to do with the Regular Council meeting that is scheduled for December 25th.

** *Councilperson Uden moved to forgo the meeting, seconded by Councilperson Andrews and passed unanimously.*

COMMITTEE RECOMMENDATIONS

Send \$48,121.28 to collections for Ambulance

** *Councilperson Galbraith moved to send the \$48,121.28 to collections, seconded by Councilperson Gardner and passed unanimously.*

BID OPENINGS

None

BID AWARDS

None

PUBLIC HEARINGS

A. ORDINANCE NO. 1327- An Ordinance Changing the Zoning of Tract No. 2, Less Tract D & 160' x 180', of the Dyba Addition to the City of Miles City From General Commercial Zone to Highway Commercial Zone, and Providing for a Hearing Thereon

Mayor Hollowell called for comments from opponents three times. Then asked for proponents three times.

Misty Carey, 508 West Arnold, Bozeman MT explained that she has ran a small business in Miles City as a medical marijuana provider for 10 years. Her patients are at an average age of 58 years old. She bought the old C and R Cleaner building to upgrade her business and put a ton of money in it. At that time she did not know that the building was not properly zoned for her business. She agrees with the City Attorney saying that the area in question should be zoned highway commercial.

Patricia Benti, 1015 North Haynes Avenue said she works at Walmart and sees a lot of people high on meth, coke and heroine, and did not feel that legal marijuana was a problem. She felt that the re-zones presented should be accepted. The Plaza used to be a busy place, but now there is not much there. With the zoning change she felt that it would invite new businesses to highway 10.

Tom Falconer, Prima Vista stated that he has owned the Omni and Miles City Plaza Mini Mall for 20 years. Since then everything has moved out to Haynes Avenue so if he gets a tenant he grabs them. He rents to a medical marijuana dispensary and they are good tenants, and they have never caused any problems, nor does the business attract anybody that causes problems. The business that is in the Plaza is State licensed and he is for the new zoning.

Jim Regan, 101 North Merrian- Felt that passing the Ordinance as written allows business to have the medical marijuana dispensaries in the area. He felt the ordinance is saying that the City is approving the selling of medical marijuana. Other than that he approves the area to be rezoned to highway commercial.

Tim Regan, 519 South Strevell- Asked if it was in the flood zone, and if the zoning is changed to highway commercial would taxes go up. He also asked who Dave DeGrandpre was and where he got his information on all the yes and no questions.

Carly Leischner, 716 Wells- She had rented from Tom Falconer for 10 years and felt it was a safe environment for her customers. When she moved into the Omni she was not aware of the zoning change and wished that the rezoning would go through.

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

B. ORDINANCE NO. 1328- An Ordinance Changing the Zoning of Lot F, Tract No. 2, of the Dyba Addition to the City of Miles City from General Commercial Zone to Highway Commercial Zone, and Providing for a Hearing Thereon

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

C. ORDINANCE NO. 1329- An Ordinance Repealing Section 21 of the Code of Ordinances of the City of Miles City and Enacting a New Section 21 of Said Code of Ordinances of the City of Miles City, Adopting New Subdivision Regulations

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. 1327- (Second Reading) An Ordinance Changing the Zoning of Tract No. 2, Less Tract D & 160' x 180', of the Dyba Addition to the City of Miles City From General Commercial Zone to Highway Commercial Zone, and Providing for a Hearing Thereon

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

Mayor Hollowell commented that the City must be as transparent as possible. The intent is to rezone the area, so approval of the Ordinance does not guarantee that a marijuana dispensary can be established in the area. That will take a conditional use approval, which is another step.

Councilperson Uden commended people with private businesses but they needed to understand where he is coming from. Since 1968 he has taken five oaths of office to support citizens of Montana and the United States of America. Article 6, paragraph 2 of the Constitution states federal law is the law of the land and marijuana is illegal under Federal law. Tetrahydrocannabinol (THC) is available from a license physician and pharmacy. Based on those facts and that he puts great value in the constitution, he will not vote in favor of the Ordinance.

Councilperson Gardner reminded everyone the Ordinance is to simply change the zoning, nothing else.

Councilperson Wilcox said the staff report received has conflicts with last year's staff report. Last year it was not entirely in favor of the change.

Director Gray explained that Dave DeGrandpre from Land Solution is the City's representation. Tonight everyone will be hearing from Matthew Rohrbach, another Land Solution representative. He also explained that the area is in the flood plain and reminded everyone that the area in question has always been general commercial.

Matthew Rohrbach, Land Solution Representative- Explained the following on the rezone:

- Current use is a plaza mini mall
- Surrounding land use-County and City land to the North, East is County residential, South is City residential and west is City general commercial and highway commercial
- Land Use is the selling of medical marijuana
- Criteria 1-4 requires everything to be met for the rezoning to pass
- Criteria 5-12 shall be considered, but if not the rezoning could pass. Need to look to see if the positive outweighs the negative
- Highway commercial, all conditions usage will be approved, but anything under "conditional use" will need to have a permit approved from Council
- Reminded everyone that the Ordinance is to pass the zoning and that was all
- General Commercial serves the smaller businesses, such as grocery and auto part stores (more neighbor orientated) up to 15,000 feet
- Highway Commercial serves more automotive orientated up to 30,000 feet
- All decisions need to be based off criteria

- The Miles City Plaza on Valley Drive East is 21,000 feet and hits all criteria's, it makes sense to be highway commercial

*** Councilperson Erlenbusch called for question, seconded by Councilperson Uden. On roll call vote, the motion passed 8-0*

*** On roll call vote, the main motion passed 6-2, with Councilperson Uden and Wilcox voting no. Ordinance No. 1327 passed.*

B. ORDINANCE NO. 1328- (Second Reading) An Ordinance Changing the Zoning of Lot F, Tract No. 2, of the Dyba Addition to the City of Miles City from General Commercial Zone to Highway Commercial Zone, and Providing for a Hearing Thereon

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

Matthew Rohrbach (Land Solution) - Explained that this Ordinance was similar to the last one and explained the difference.

- Located in the same area, north of the parcel that was just discussed.
- Includes two buildings
- Bordered by County land to the North and City land to the East, South and West, zoned general commercial. A little different from the other rezone because it does not have a residential area close by
- Proposed use is medical marijuana
- It is not immediately bordered by a Highway Commercial zone
- It is not significantly different from the prevailing land use
- It would benefit small land owners, but not at the expense of the general public

*** On roll call vote, the motion passed 6-2 with Councilperson Wilcox and Uden voting no. Ordinance No. 1328 passed.*

C. ORDINANCE NO. 1329- (Second Reading) An Ordinance Repealing Section 21 of the Code of Ordinances of the City of Miles City and Enacting a New Section 21 of Said Code of Ordinances of the City of Miles City, Adopting New Subdivision Regulations

*** Councilperson Galbraith moved to approve the Ordinance, read by title only and seconded by Councilperson Kassner. On roll call vote, the motion passed by unanimous consent, 8-0. Ordinance No. 1329 passed.*

D. RESOLUTION NO. 4207- A Resolution Approving a Revised Collective Bargaining Agreement Between the City of Miles City and the Local No. 283-B Union

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

Councilperson Galbraith explained that the finance committee recommends that all three of the union contracts go back to the Mayor and unions for renegotiation.

*** On roll call vote, the motion failed, 0-8. Resolution No. 4207 failed.*

E. RESOLUTION NO. 4208- A Resolution Approving a Revised Collective Bargaining Agreement Between the City of Miles City and the Local No. 600 Union

*** Councilperson Galbraith moved to approve the Resolution, read by title only and seconded by Councilperson Andrews. On roll call vote, the motion failed, 0-8. Resolution No. 4208 failed.*

F. RESOLUTION NO. 4209- A Resolution Approving a Revised Collective Bargaining Agreement Between the City of Miles City and the Local No. 283-A Union

** Councilperson Galbraith moved to approve the Resolution, read by title only and seconded by Councilperson Andrews. On roll call vote, the motion **failed**, 0-8. Resolution No. 4209 failed.

NEW BUSINESS

A. RESOLUTION NO. 4213-A Resolution Approving a MMIA sworn statement in Proof of Loss Related to Claim for Damage to Fire-Hall

** Councilperson Uden moved to approve the Resolution, read by title only and seconded by Councilperson Galbraith. On roll call vote, the motion **passed** by unanimous consent, 8-0. Resolution No. 4213 passed.

B. RESOLUTION NO. 4214- A Resolution Approving a Task Order Between the City and Kadrmas, Lee & Jackson, Inc., For Services Related to the Miles City Master Stormwater Plan

** Councilperson Galbraith moved to approve the Resolution, read by title only and seconded by Councilperson Gardner. On roll call vote, the motion **passed** by unanimous consent, 8-0. Resolution No. 4214 passed.

C. Discussion on Workshop Meeting With Army Corps

When the Army Corps of Engineers met in October, alternative development was discussed. The Corps is scheduling another meeting and would like to know when Council would like it. The days are- December 10 and 11th or December 13th and 14th.

D. Approval of October Claims

** Councilperson Wilcox moved to approve the October claims, seconded by Councilperson Huber and **passed unanimously**, 8-0.

ADJOURNMENT

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

The meeting was adjourned at 7:47 p.m.


John Hollowell, Mayor


Lorrie Pearce, City Clerk