

REGULAR COUNCIL MEETING January 22, 2019

6:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, January 22, 2019, 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 City Attorney Dan Rice, Public Works Director Scott Gray, Police Chief Doug Colombik, Fire Chief Branden Stevens, Public Utilities Director Tom Speelmon, City Planner in Training Ally Capps, 9-1-1 Supervisor Lyne Anderson 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: 1/8/2019

** *Councilperson Galbraith moved to approve the minutes of the Regular Council Meeting of January 08, 2019, 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 Safety Committee Friday January 25th @ 5:30pm
 Human Resource Committee Tuesday February 12th @ 5:30pm

REQUEST OF CITIZENS & PUBLIC COMMENT

None

APPOINTMENTS

Austin Lott- Planning Board

** *Councilperson Kassner moved to approve Austin Lott to the Planning Board, seconded by Councilperson Huber. The motion passed unanimously*

PROCLAMATIONS

None

STAFF REPORTS

Brandon Stevens- Reported the following:

- Tower 19 has a pump issue and will be tested in March or April
- Engine 8 has front end issues and will be looked at in a couple of weeks
- TransCanada's donation of \$80,000 was received
- Fire department has restroom issues- Could be a blocked or collapsed sewer line
- Apologized to the Lyman area residents for the smoke that was produced by the fire training center. He said the wind was blowing the wrong way that day, but a trainer had flown in from another state and he made the decision to proceed with the training. Now that everyone is trained, days can be rescheduled if the wind is not blowing in the correct direction
- Recognized Taran Harbaugh for passing his paramedic exam. He paid for the education out of his pocket and used his own time

- Announced Nick Stinson is now a confirmed fire fighter and is studying for a paramedic
- Brad Davis passed the ICC1 test and accepted the Deputy Inspector's position

Lyne Anderson- Presented a 15 minutes presentation on New Generation 911.

Scott Gray- Reported that City Hall had a sewer issue on Friday and City Hall was closed because of it. He thanked Bucky Johnson, Max Hilderbrand, Mark Mosely, Tyler Brockway and Jim Garza for working endlessly from Friday morning till the project was finished on Monday morning. He added that he received a letter from MMIA stating that the structure in the Bender Park building passed. Construction will begin as soon as possible.

CITY COUNCIL COMMENTS

Rick Huber- Said he and Councilperson Gardener joined the police department in a ride along. He felt the officers worked well together and had a great rapport with bar owners and employees.

Ken Gardner- Was amazed how the officer could multitask and thought 9-1-1 did a great job.

John Uden- Commended Director Gray's crew for their hard work and added that 9-1-1 is just involved in saving lives as the other public servants.

MAYOR COMMENTS

None

COMMITTEE RECOMMENDATIONS

None

BID OPENINGS

None

BID AWARDS

(1) Four Wheel Drive Loader -

- Titan Machinery- \$160,226.07 with a buyback of \$38,630- Case= \$ 121,596.07- Failed to meet specifications
- RDO Equipment- \$195,850.00 with a buyback of \$47,000- JD = \$148,850- Second lowest bid, met all specifications and recommended by Directors
- Tractor & Equipment- \$186,245.00 with a buyback of \$35,000-Cat=\$ 151,245

(2) Four Wheel Drive Extendable Stick Backhoe Loader-

- Titan Machinery- \$117,274.00 with a buyback of \$48,200- Case= \$69,074- Bid received was a smaller size backhoe than requested
- RDO Equipment- \$125,250.00 with a buyback of \$43,000- JD= \$ 82,250- Second lowest bid received and recommended by Directors
- Tractor & Equipment- \$134,549.00 with a buyback of \$47,500-Cat= \$87,049

(3) Combination Sewer Vacuum Truck

- Titan Machinery- \$387,368- Bid included the vacuum boom that the City was looking for. Directors felt it would save time and pay for itself in three months. Recommended by Director Speelmon
- Kois Brothers- \$374,300- Partially met specifications- Did not offer the vacuum boom

**** Councilperson Uden moved to approve RDO Equipment bids for the Loader and Backhoe and Titan for the Vacuum Truck, seconded by Committee Member Galbraith. Motion passed 8-0**

PUBLIC HEARINGS

A. RESOLUTION NO. 4221- A Resolution Pursuant to §7-6-4006 of the

PROCEEDING OF CITY COUNCIL

MILES CITY, MONTANA

Montana Code Annotated, Authorizing Amendment of Final Budget for FY 2018-2019 to Increase the Budgeted Amount in Various Funds for Various Unbudgeted Revenues and Expenditures

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

B. RESOLUTION NO. 4225- A Resolution Adopting Findings of Facts, and Denying a Conditional Use Permit for a Medical Marijuana Dispensary at 2317 and 2319 Melrose Avenue

Mayor Hollowell called for comments from proponents.

Kannacare owner, Misty Carey 508 W. Arnold Street, Bozeman Montana explained that she has been a provider in Miles City for over a decade. She sold her previous building and bought the old C&R Cleaner building. Her request to the Council was permission to move into the renovated building for a more professional feeling. She sells a variety of products including topical application and products for dogs and cats. She also has cancer patients that she sells her products to. She felt she was the best and most knowledgeable person to sell the product.

Matt Kercheval 702 N. Earling spoke on free enterprise. He would like to see the promotion of business's in the area to bring more money into the City.

Mayor Hollowell called for comments from proponents three more times, then called for opponents

Gary Cridland 2804 Sudlow was in favor of denying the resolution because the location is within 1000 feet of a school, playground or a religious institution as the City's Ordinance states. He explained that there is a church and roller rink within the 1000 feet and medical marijuana is illegal according to Federal law. Federal Government can take a stand against the business and lending, financial and title institution are against it. The City's Ordinance states that a business license application is required every year and it must be a legal business. He felt the business license was not enforced.

Mayor Hollowell called for opponents three times and, hearing none, the hearing was closed

UNFINISHED BUSINESS

A. RESOLUTION NO. 4221- (Second Reading) A Resolution Pursuant to §7-6-4006 of the Montana Code Annotated, Authorizing Amendment of Final Budget for FY 2018-2019 to Increase the Budgeted Amount in Various Funds for Various Unbudgeted Revenues and Expenditures

** *Councilperson Galbraith moved to approve the Resolution, read by title only, seconded by Councilperson Gardner. The motion passed 8-0*
Resolution No. 4221 was adopted

NEW BUSINESS

A. RESOLUTION NO. 4225- A Resolution Adopting Findings of Facts, and Denying a Conditional Use Permit for a Medical Marijuana Dispensary at 2317 and 2319 Melrose Avenue

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

There was a conversation as to whether the business is legal. Attorney Rice explained that the business is legal under State law and Council should not make their decision on the grounds that it is illegal under Federal law. The City of Miles City is a subsidiary of the State, so the City should vote to follow State law, not Federal law.

Councilperson Galbraith asked Attorney Rice about the distance rule and why it would make a difference if the location in the Plaza is approved or the new constructed building. Attorney Rice explained that the location in the Plaza is grandfathered in and the new location would be under the new Zoning code. He said if the request is denied the applicant could seek a variance as of the distance only from the Board of Adjustment. If that variance has a distance requirement granted, then it could come back to the Council as a conditional use application.

**** Councilperson Uden call for question and was seconded by Councilperson Wilcox. The motion passed 6-2, with Councilperson Andrews and Galbraith voting no**

**** The main motion passed 5-3 with Councilperson Erlenbusch, Andrews and Galbraith voting no Resolution No. 4225 passed (denying the Conditional Use Permit**

B. RESOLUTION NO. 4226- A Resolution Approving a Change Order to the Agreement With Montana Civil, LLC for the Addition of Irrigation Restoration, Imported Trench Backfill Material, Curb and Gutter Replacement and Other Miscellaneous Quantity Changes Related to the Darling Addition Street and Utilities Rehabilitation Project

**** Councilperson Erlenbusch moved to approve the Resolution, read by title only, seconded by Councilperson Andrews. The motion passed 8-0 Resolution No. 4226 was adopted**

C. Approval on Disposal of Retention Records

**** Councilperson Galbraith moved to approve the disposal presented, seconded by Councilperson Gardner and passed unanimously.**

ADJOURNMENT

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

The meeting was adjourned at 7:20p.m.


John Hollowell, Mayor


Lorrie Pearce, City Clerk