



CITY OF MILES CITY AGENDA

*Regular Council Meeting
City Council Chambers*

*April 23, 2019
6:00 p.m.*

CALL TO ORDER PLEDGE OF ALLEGIANCE ROLL CALL

1. APPROVAL OF COUNCIL MINUTES/COMMITTEE MINUTES

- A. Regular City Council Meeting 4/09/2019
- B. Human Resources Committee 4/16/2019

2. SCHEDULE MEETINGS

3. REQUEST OF CITIZENS & PUBLIC COMMENT

Sue Stanton- Keep Miles City Beautiful presenting the Great American Cleanup on May 11th.

Mark Ahner- (4th of July Committee)- Asking for the City to provide signage, street closure from 5th Street to Montana Street, Police escort for the parade, Park use permit that includes the Pavilion and City provide and pay for the Special event liability Insurance.

Tongue River Herd & Keep Miles City Beautiful – Sculpture for Riverside Park.

4. APPOINTMENTS

5. PROCLAMATIONS

6. STAFF REPORTS

7. CITY COUNCIL COMMENTS

8. MAYOR COMMENTS

9. COMMITTEE RECOMMENDATIONS

10. BID OPENINGS

11. BID AWARDS

12. PUBLIC HEARINGS

- A. **ORDINANCE NO. 1331- An Ordinance Amending Section 23-27 of the Code of Ordinances of Miles City, Montana, With Regards to the Fluoridation of Municipal Water**

13. UNFINISHED BUSINESS

- A. **ORDINANCE NO. 1331- (Second Reading) An Ordinance Amending Section 23-27 of the Code of Ordinances of Miles City, Montana, With Regards to the Fluoridation of Municipal Water**

14. NEW BUSINESS

- A. **ORDINANCE NO. 1332- (*First Reading*) An Ordinance Repealing Section 16-44 of the Code of Ordinances of the City of Miles City With Respect to the Prohibition Against the Carry or Sale of Switchblade Knives**
- B. **RESOLUTION NO. 4244- A Resolution Approving Terms for a Contract with Board by Board Construction for Building Repairs at Bender Park.**

15. ADJOURNMENT

Public comment on any public matter that is not on the agenda of this meeting can be presented under Request 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

Minutes

REGULAR COUNCIL MEETING April 09, 2019

6:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, April 9, 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, Flood Plain Administrator Sam Malenovsky, Public Utilities Director Tom Speelmon, City Clerk Lorrie Pearce, and Deputy City Clerk/Minute Recorder Mary Roberts.

PLEDGE OF ALLEGIANCE

Mayor Hollowell led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 3/26/2019

****** *Councilperson Uden moved to approve the minutes of the Regular Council Meeting of March 26, 2019, and seconded by Councilperson Erlenbusch. The motion passed by unanimous consent, 8-0.*

SCHEDULE MEETINGS

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

- *Human Resources Committee April 16, 2019 at 6:00 pm*
- *Finance Committee April 18, 2019 at 6:00 pm*

REQUEST OF CITIZENS & PUBLIC COMMENT

Bill Eckart, 1415 North 6th Street, owner of Eckart Trucking stated that he needed authorization to build a 40 by 70 foot building attached to a pre-existing building on his property. Mayor Hollowell advised him to meet with the Flood Plain Administrator Malenovsky regarding his request. Councilperson Huber suggested a Special Council meeting to speed the process in support of economic development. Mayor Hollowell agreed that a Special Council meeting could be arranged.

Rob Shipley, 603 South 4th Street, stated that he would be incarcerated on the 9th of May for one hundred and eighty days and be fined \$500, and believes it to be

illegal. He accused Jeff Noble, Deputy City Attorney of “stealing” a jury trial from him eleven times. He believes that Deputy City Attorney Jeff Noble has lied to the Judge, Police Chief, City Attorney, and all public about his right to have a jury trial. He declared to City Council and all public that he will appear on May 9th at 2:00 p.m. in City Court with 12-18 of his peers to demand a jury trial. Mr. Shipley then promised all people that his property will be cleaned by the 20th of April and no further actions would be necessary. City Attorney Dan Rice and Mayor Hollowell agreed with him that no further action would be necessary after April 20th, if he followed through and cleaned it up.

APPOINTMENTS

None

PROCLAMATIONS

None

STAFF REPORTS

- A. Director Gray wanted to let everyone know that they have a short crew and they are getting to the potholes and frost heaves as soon as they can. He asked that everyone please have patience as this year’s frost was really bad causing frozen sewer and water lines. He added that there will be Aquaphalt™ used this year to repair smaller potholes that will flex with the temperature and moisture changes.
- John Goff, 249 Sunset Drive, wanted to thank Director Speelmon and Director Gray for all their work fixing the streets. Then he asked if they were planning to repair school areas first, to which Director Gray replied yes.
 - Councilperson Uden asked when the swimming pool was expected to begin filling. Director Gray replied that it was expected to start filling on Monday, April 15th.
- B. Administrator Malenovsky wanted to remind everyone that on Tuesday, April 16th at the Town & Country Club from 9-12 pm DES and Dispatch Supervisor Lyne Anderson will put on a tabletop exercise regarding public communication. Following at 2:30 pm until finished will be a Flood Awareness Day discussion which is open to the public.

CITY COUNCIL COMMENTS

- A. Councilperson Andrews commended the efforts of the Public Works Department for their quick response to the frost heaves and road repairs.

- B. Councilperson Gardner mentioned that he had a town contractor call him inquiring about whether or not a business license is required to work here in town even if they are not a contractor. He wanted to verify the procedure to obtain a business license with council. Mayor Hollowell answered yes, and one is available through City Treasurer Moorehead.
- C. Councilperson Galbraith gave a shout out to the VA long-term care facility. They went through a surprise inspection and were one out of seven without any infractions.

MAYOR COMMENTS

COMMITTEE RECOMMENDATIONS

BID OPENINGS

BID AWARDS-

PUBLIC HEARINGS

A. Appeal of Floodplain Permit Denial on Ellis Rentals, located at 900 Albert Ave. lots 37 & 47

Mayor Hollowell opened the hearing and called for comments from proponents.

- Mary Jo Kramer, 900 Albert Drive #22, said she had lived in the court for almost 23 years and noted that Mr. Ellis wants to bring in some new homes. She thinks that it would be a nice improvement, but instead it seems that he is being penalized. She asked the council to work with him instead of trying to put him out of business, which is what could eventually happen.
- Jacie Smith, 511 Garland Street, says she used to live in the trailer court. It is one of the nicer courts in town. She gave her opinion that the trailers would look bad raised up and present more risk factors with heights and children. She stated that her child was affected by drugs when she lived in the area. Bringing in newer, nicer homes would attract better renters; better people. Although, bringing in new trailers would pass the expense onto the renter. Some of the renters are on fixed incomes and would not be able to afford it.
- John Goff, stated that as owner of Milestone Property Management he wants to see nicer, newer trailers brought in. He knows there is limited income for the residents of the trailer court. The increase in elevation of the trailers would pose extra problems for the residents,

especially the elderly and those in wheelchairs because of the space and grade of ramp needed to meet handicap accessibility standards. Rent increases could be imposed which would offset costs and bring in people with higher levels of income. It would increase the longevity of the property.

- Bill Kuester, 900 Albert Drive #55, expressed concern about the elevation of other trailers affecting the livelihood of his property as he lives on the creek edge (city storm water ponds). Water would shed onto his property as he would be downhill from the other trailers forcing him to raise his, but he cannot afford to do so. He thought it would also be an eyesore for everybody.

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

B. Floodplain Variance Application re: Variance Exception on Ellis Rentals, located at 900 Albert Ave. lots 37& 47

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

UNFINISHED BUSINESS

A. Appeal of Floodplain Permit Denial on Ellis Rentals, located at 900 Albert Ave. lots 37 & 47

- **** *Councilperson Galbraith moved to approve the Appeal of Floodplain Permit Denial on Ellis Rentals, located at 900 Albert Ave. lots 37 & 47 and seconded by councilperson Gardner.*

Flood Plain Administrator Malenovsky explained that the permit was denied because applicant wanted to elevate the trailers to an elevation that was below the flood code requirement without a variance. The City elevation requirement is base flood elevation plus two feet above grade.

City Attorney Rice explained that the council is being asked to either concur with the Flood Plain Administrator's decision to deny the permit, or to overrule her decision, and grant the permit without a variance.

Attorney Chris Gray, Gray Law Office, PO Box 1065, Bozeman,

MT 59771, Attorney on behalf of Mr. Ellis, explained that he and Mr. Ellis had given the City Council a lot of information. Ellis Rentals is asking that the council use the flood plain regulations as intended to grant a permit for the entire Westwood Mobile Park as it stands today. They are asking Council to grant the permit in accordance with Montana law after the Flood Plain Administrator had denied their application. The trailer park contains specifically 70 mobile home lots today, and they are charted out along with the park's roads, water/sewer, and drainage facilities. They are using Miles City's regulations to request a floodplain permit for the entire park, including all of the elements within the park. The permit is for non-conforming uses or artificial obstructions, in other words a permit for grandfathered rights of the entire park. The staff report for the appeal from the Flood Plain Administrator did not accurately portray the original application. Their original application was for the park in its entirety; however the February and April staff reports only show two lots on the application. He wanted to make it clear that the application is for the park in its entirety, including all of the grandfathered trailers and lots with site and size locations, and all other elements within the park. They disclosed that included in that right is the ability to repair or replace the mobile homes in their current condition, at their current size, in their current scope as is. They made it very clear so that there were no surprises, no enforcement action, utility conflict, or anything of the sort later. Attorney Gray quoted that the Flood Plain Administrator agreed that the manufactured mobile home park or subdivision is preexisting and allowable under the above listed facts as nonconforming. Since Mr. Gray and Mr. Ellis agreed with that decision, they concluded that the Flood Plain Administrator had stated that the entire mobile home park is permissible. Once this agreement was reached, the Flood Plain Administrator went on to state that if the mobile homes were replaced, altered, or substantially improved that another floodplain permit would be required. Attorney Gray proceeded stating that law is law in Montana. There is a land use regulation that states it cannot be enforced against mobile homes, or mobile home sites. They believe that Flood Plain Administrator Malenovsky incorrectly concluded that the application for the permit was denied based on the replacement of the mobile homes. They believe it was an unlawful misapplication process because it directly conflicts with Montana Supreme Court law. Montana law states that mobile homes are a vested property if they were there before the flood plain regulations were in place. The repair and replace is protected by Montana law and cannot be denied on these grounds alone.

Councilperson Gardner questioned whether Montana Supreme Court law, Miles City regulations, or Federal regulations were supposed to be followed. He believed that Federal regulations or Federal Emergency

Management Agency's laws trumped everything else.

City Attorney Rice clarified that Federal regulations only require 36 inch elevation for a mobile home even if in floodway. Westwood Mobile Home Park is compliant with Federal law. Montana State regulations require an elevation of 2 feet above base flood elevation, which is 8 foot elevation in Miles City.

Flood Plain Administrator Malenovsky stated that floodplain Federal code requires permits for all new constructions including manufactured homes. Every time a structure is replaced within the flood plain, a flood plain permit is required. That is how it is stated by Federal code, State code, and the City code of ordinances.

Attorney Gray stated that Montana Supreme Court had already ruled on grandfather law and that Montana State regulation did not carefully tailor to mobile homes regarding that Montana Supreme Court ruling. Montana State regulation is in violation of the Federal law pertaining to vested rights and mobile homes.

After a long discussion about which regulations need to be applied for this particular case and what the correct elevation should be based on standards of use along with regulation, majority decided that Ellis Rentals did meet Federal regulations, but if they granted a permit without a variance and allowed the 36 inch elevation, it could affect the Community Rating System for Miles City. The Council agreed that they need to look out for the best interest of all residents of Miles City.

** *Councilperson Uden called for question and seconded by Councilperson Wilcox. The motion passed unanimously.*

** *On a roll call vote, the original motion failed, 5-3. With councilpersons Gailbraith, Uden, Kassner, Wilcox, and Erlenbusch voting nay.*

B. Floodplain Variance Application re: Variance Exception on Ellis Rentals, located at 900 Albert Ave. lots 37& 47

** *Councilperson Andrews moved to approve the Floodplain Variance Application re: Variance Exception on Ellis Rentals, located at 900 Albert Ave. lots 37& 47 and seconded by Councilperson Galbraith.*

Attorney Gray opened the discussion by asking the Council to abide by Federal regulations as to strapping requirements and tie down of the structures. Administer the regulations to the **entire** mobile home park. He went on record that the staff report from February was different than the original application and did not show the entire mobile home park, but only two lots within the mobile home park. He stated that they were reserving all of their rights, not waiving any rights that day. He said that there are approximately sixty-five people that would be affected by this variance decision.

He asked that Council to not use the variance criteria, but to use the exception to the variance criteria in the regulation in Section 12-59 part two. He asked Council to recognize the 70 or so lots at Albert's Mobile Home. He stated that each lot is a half-acre or less, on continuous land around each other, and all are below base flood elevation. These exceptions are directly in the Federal regulations.

Regarding lot size, Attorney Gray passed out paperwork from the Montana Department of Health and Human Services and Montana Department of Environmental Quality showing trailer court regulations and how trailer parks are licensed and how they operate from a public health standpoint. The Montana Subdivision and Platting Act states that any trailer court constructed after July, 1973 must meet the subdivision requirements. Subdivision is defined as an area, regardless of size, that provides multiple spaces for rent. He pointed out that this trailer park was created and licensed in 1976 by a government agency stating that there are approved lots there. One of the letters dated 1998 states that lot sizes as indicated on the plans filed with the county clerk will not be further altered without approval. He said that the lot sizes were approved in 1998 when four additional lots were created in Westwood Estates Trailer Park. The mobile home lots in the park have been recognized as a subdivision of land, and are considered lots within a mobile home park in accordance with Montana law.

Attorney Gray recognized that the mobile home park is in the floodplain and the level of elevation is an issue. He stated that after the Council recognizes that the trailer park meets the variance criteria for the exception, then the exception should be applied and relief could be granted for the two feet above flood elevation State requirement for the entire park. Federal Emergency Management Agency regulations state that the foundation must be at 36 inches above existing ground elevation. At the federally regulated elevation it would maintain affordability and maintains access for the residents of the trailer park. Ellis Rentals is trying to get to a point where there is not a variance application every time an owner wanted to replace their mobile home for ten years. Attorney Gray also pointed out that Ellis Rentals agreed to accept potential storm water runoff in the park and had continued to pay maintenance of the lift stations and pay at least

\$4,000 in street maintenance fees.

Flood Plain Administrator Malenovsky stated that according to the Montana Cadastral map the trailer park consists of only two lots. It was brought to Sam's attention by another Flood Plain Administrator that there is no actual subdivision plat on file. City Attorney Rice discussed that in his opinion there is no set definition of a "lot" anywhere in federal regulation, but the land is divided into two or more parcels for rent. City Attorney Rice stated that because it is divided within itself into individual spaces offered for rent it is considered a subdivision/mobile home park.

Based on the information provided it was debated whether or not to grant the variance exception for the park in its entirety or each lot individually, what the elevation should be, and if they meet the 10 criteria for the variance exception.

After a lengthy conversation, it was decided that a variance exception could be granted to the entire park for a span of ten years as Attorney Gray had requested, with certain conditions attached. These conditions would be that the replacement of any of the seventy trailers would meet the thirty-six inch requirement plus a one foot freeboard, or forty-eight inch elevation, on both trailer and utilities, permits would still be required for each individual trailer, the replacement trailers would be the same size and structure as the one being replaced, and the City of Miles City reserves the right to make changes to the blanket variance if laws or other regulations change. Attorney Gray and Mr. Ellis both agreed with most of the terms, except the elevation level.

It was then brought up that if a variance was granted with elevation at thirty-six inches instead of the staff recommended forty-eight inches, it could cause the Community Rating System in our community to go from a class 9 to a class 8, which would raise flood insurance rates by 5% for the entire city. No member of the Council was comfortable with the possibility of flood insurance rates increasing. While this discussion was taking place Attorney Gray requested a continuation and offered to take the burden off of the City of Miles City and figure out whether or not the Community Rating System could be affected by granting the variance in this particular case, with full documentation of the results given to the Flood Plain Administrator.

*** Councilperson Uden moved to postpone Floodplain Variance Application re: Variance Exception on Ellis Rentals, located at 900 Albert Ave. lots 37 & 47 until July 9th, 2019 and seconded by Councilperson Wilcox. On a Roll Call Vote the motion passed 8-0.*

C. Approval of designating a one-way street on Dickinson Street from South Montana to South Lake Street

** *Councilperson Andrews moved to approve the designation of a one-way street on Dickinson Street from South Montana to South Lake Street and seconded by Councilperson Huber.*

Councilperson Wilcox stated that the letters from the residents stated that they did not want the street turned into a one-way and that they see no point in it.

Director Gray declared that a majority of the residents did not want it, but they did suggest speed limit and/or yield signs might work. He informed the Council that he had already put up temporary fifteen mile an hour speed limit signs and yield signs and suggested that they be left up for a period of time to see how it works.

** *The motion failed 6-2, with Councilpersons Uden, Kassner, Wilcox, Galbraith, Gardner, and Huber voting no.*

NEW BUSINESS

A. **RESOLUTION NO. 4243- A Resolution Approving Terms for a Commercial Loan Agreement With the Montana Community Development Corporation, For Purchase of a Fire Training Building**

** *Councilperson Galbraith moved to approve the resolution number by title only, seconded by Councilperson Erlenbusch.*

Councilperson Gardner requested to know if the amount would change, to which City Clerk Pearce replied no, it would be a 3% monthly payment that would stay approximately the same as the current payment.

** On a Roll Call vote *Resolution number 4243 passed 6-2, with Councilpersons Uden and Kassner voting nay.*

B. **ORDINANCE NO. 1331- (First Reading) An Ordinance Amending Section 23-27 of the Code of Ordinances of Miles City, Montana, With Regards to the Fluoridation of Municipal Water**

** *Councilperson Huber moved to approve Ordinance no. 1331, by title only, and seconded by Councilperson Kassner. On a Roll Call vote Ordinance number 1331 passed unanimously, 8-0.*

C. **APPROVAL OF MARCH CLAIMS**

** *Councilperson Andrews moved to approve the March claims, seconded by Councilperson Galbraith 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 9:28 p.m.

John Hollowell, Mayor

Mary Roberts, Deputy Clerk

Human Resources Committee
April 16, 2019

The **Human Resources Committee** met Tuesday, April 16, 2019, at 6:00 p.m. in the Conference Room at City Hall. Present were Committee Members Kathy Wilcox, John Uden, Susanne Galbraith, and Jeff Erlenbusch. Also present were Police Chief Doug Colombik, Fire Chief Branden Stevens, City Planner-in-Training Ally Capps, Public Works Director Scott Gray and Human Resources Officer/Recorder Linda Wilkins.

Committee Member Jeff Erlenbusch called the meeting to order.

1. Request of Citizens
None

2. Committee Member Comments
None

3. Recommend and Approve: Trial of additional duties, City Planner-in-Training

There was discussion on the feasibility of adding the duties of the Historic Preservation Officer and Urban Renewal Agency Director to a position that was already a training position. One of the duties of the Planner-in-Training is writing grants to help obtain additional funding for the City, there was concern expressed that this aspect of the position may be neglected. A letter had been presented to the committee from the Urban Renewal Agency Chairperson supporting the temporary assignment of UR duties to the Planner-in-Training. The URA committee is willing to provide assistance with the fulfillment of the duties required of the UR Director. The purpose of combining the two positions is not with the intent of taking away from the duties of the Planner-in-Training. It is understood that the training process for a planner takes place over a couple of years. The qualifications and time of the current Planner-in-Training were called into question, as to whether the obligations of both positions could be fulfilled. The City cannot operate without a Planner; however, it can operate without the HPO/URA Director. It was presented that this would be a temporary assignment of additional duties. If the duties became too burdensome, the Planner-in-Training will inform the Public Works Director who will inform the Human Resources Committee. The committee will monitor the position for a trial period of three months beginning May 1, 2019 and ending July 31, 2019 with a possible extension of the trial period. The Public Works Director and Planner-in-Training will provide monthly updates as to the progress of the combined duties to the Human Resources Committee during HR Committee meetings.

***Committee Member Uden moved that there be a temporary assignment to the Planner-in-Training and Grant Writer to perform the duties of the Historic Preservation Officer and Urban Renewal Agency Director, seconded by Committee Member Erlenbusch. On roll call vote the motion passed 3-1. Committee Member Galbraith voting nay.*

4. Recommend and Approve: Battalion Chief Position Description

Two position descriptions were presented to the Committee one for internal applicants and one for external applicants. It was decided that only one position description was necessary. The position description for the external applicant will be used with the word "External" removed and the position description formatted to the current position description template.

***Committee Member Uden moved to approve the external Battalion Chief position description with the word "External" removed, seconded by Committee Member Galbraith. On roll call vote the motion passed 4-0.*

5. Recommend and Approve: Police Sergeant Position Description

The Police Sergeant position was reviewed with the following revisions made: Item 6 under the heading ESSENTIAL ACCOUNTABILITIES AND EXPECTED OUTCOMES change “prompt” to “promptly” remove the words “and cheerful manner”. Under the heading MINIMUM REQUIREMENTS item Experience (skills, abilities), number 1 change to read “Three years in law enforcement field experience.”; item Certificates/Licenses number 1 add “Must be able to obtain an Intermediate Certificate within one year of hire.”

***Committee Member Galbraith moved to approve the Police Sergeant position description as revised, seconded by Committee Member Uden. On roll call vote the motion passed 4-0.*

6. Recommend and Approve: Revisions to “Recruitment and Selection” Personnel Policy

The “Recruitment and Selection” Personnel Policy was reviewed with the following revisions made: Page 4 Application Screening: A. ~~The Mayor and the immediate supervisor for the position being hired~~ “Human Resources Officer” will screen applications for basic qualifications, ...B. ...forwarded to the Mayor-“Supervisor” for... ~~The Mayor and/or his designee in consultation with the immediate supervisor for the position being hired;~~ will... “The Mayor must approve all applicants hired.” C. for two “three (3)” years,... Page 7 C. The Mayor may “shall” establish a salary using the “~~2012 Wage and Benefits Analysis~~” “Non-Union Employees Wage Scale” as a... If the Mayor feels “deems” that ~~an increase in salary~~ “a deviation from the wage scale” is necessary... ~~The Mayor may also, in his/her discretion, offer a lesser amount in salary. Any exceptions to the “2012 Wage and Benefit Analysis” shall be documented by the Mayor and kept in the hiring/payroll/personnel file.~~ Page 8 Prospective Full Time Police Officer Applicants: ...for employment will ~~only~~ be accepted from “outside applicants” ~~persons who have “employment candidates must” successfully completed MLETC testing.” ; and are currently on the MLETC eligibility list. Each time a vacancy occurs, all such person on this list will be notified in writing and invited to submit an application.~~

***Committee Member Erlenbusch moved to approve the “Recruitment and Selection” Personnel Policy as revised, seconded by Committee Member Uden. On roll call vote the motion passed 4-0.*

7. Next Meeting

May 30, 2019 6:00 p.m. City Hall Conference Room

8. Adjournment

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

The meeting was adjourned at 7:40 p.m.

Respectfully submitted,

Committee Chairperson Kathy Wilcox

Recorder Linda Wilkins

Public Hearing
&
Unfinished Business

ORDINANCE NO. 1331

AN ORDINANCE AMENDING SECTION 23-27 OF THE CODE OF ORDINANCES OF MILES CITY, MONTANA, WITH REGARDS TO THE FLORIDATION OF MUNICIPAL WATER.

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Section 23-27 shall be amended to read as follows:

Sec. 23-27. - Fluoridation. Upon receiving the approval of the state department of health and environmental sciences, and until further direction of the city council, the public utilities director is hereby authorized and directed to provide the means and to proceed with the addition of approximately 0.7 and not more than 1.0 parts of fluoride to every million parts of water being distributed in the water supply system of the city.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 9th day of April, 2019.

John Hollowell, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this 23rd day of April, 2019.

John Hollowell, Mayor

ATTEST:

Lorrie Pearce, City Clerk

New Business

ORDINANCE NO. 1332

AN ORDINANCE REPEALING SECTION 16-44 OF THE CODE OF ORDINANCES OF THE CITY OF MILES CITY WITH RESPECT TO THE PROHIBITION AGAINST THE CARRY OR SALE OF SWITCHBLADE KNIVES.

WHEREAS, the Montana Legislature passed House Bill 155, which repealed the State of Montana's prohibitions related to switchblade knives, and which contains language prohibiting local governments from enforcing any ordinance which regulates, restricts, or prohibits the ownership, use, possession, or sale of any type of knife that is not specifically prohibited by state law;

AND WHEREAS, Section 16-44 of the Code of Ordinances of Miles City, Montana, states as follows: "(a) It shall be unlawful for any person to carry or bear on his person, or within or on any motor vehicle or other means of conveyance which is owned or operated by such person, or give away, sell or offer for sale a switchblade knife; provided that a bona fide collector whose collection is registered with the city police chief is hereby exempted from this section. (b) For the purpose of this section, a switchblade is defined as any knife which has a blade 1½ inches long or longer, which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.";

AND WHEREAS, Section 16-44 requires repeal by virtue of House Bill 155, which was signed by the Governor of the State of Montana on April 3, 2019;

BE IT ORDAINED, by the City Council of the City of Miles City, Montana, as follows:

Section 1. Section 16-44 is hereby **REPEALED**.

Section 2. This Ordinance shall become effective thirty (30) days after its final passage.

Said Ordinance read and put on its passage this 23rd day of April, 2019.

John Hollowell, Mayor

ATTEST:

Lorrie Pearce, City Clerk

FINALLY PASSED AND ADOPTED this 14th day of May, 2019.

John Hollowell, Mayor

ATTEST:

Lorrie Pearce, City Clerk



AN ACT PROHIBITING LOCAL RESTRICTIONS REGARDING KNIVES; PROVIDING AN EXCEPTION; REPEALING SECTION 45-8-331, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Local governments -- limitation on enactments. (1) Except as provided in subsection (2), local governments may not enact or enforce an ordinance, rule, or regulation that restricts or prohibits the ownership, use, possession, or sale of any type of knife that is not specifically prohibited by state law.

(2) Subsection (1) does not apply to a local government ordinance, rule, or regulation prohibiting the possession of a knife on property or in a building owned, leased, or possessed by the local government entity.

Section 2. Repealer. The following section of the Montana Code Annotated is repealed:
45-8-331. Switchblade knives.

Section 3. Codification instruction. [Section 1] is intended to be codified as an integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to [section 1].

Section 4. Effective date. [This act] is effective on passage and approval.

- END -

RESOLUTION NO. 4244

A RESOLUTION APPROVING TERMS FOR A CONTRACT WITH BOARD BY BOARD CONSTRUCTION FOR BUILDING REPAIRS AT BENDER PARK.

WHEREAS, the City of Miles City has engaged Board by Board Construction to complete certain repairs and renovations to a City owned structure at Bender Park, which was previously damaged by fire;

AND WHEREAS, the scope of said work has expanded as the result of latent damage to the building; however, the initial bid amount for the work contemplated was \$ 55,683.37;

AND WHEREAS, in order for an insurance claim to be completed to cover the cost of said repairs and renovations, a written agreement as to the services being provided is required by the Montana Municipal Interlocal Authority;

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

1. The Contract between Board by Board Construction and the City of Miles City for renovations in the amount of \$93,895.62, attached hereto as Exhibit "A", and made a part hereof, is hereby approved and adopted by this Council.

2. The Mayor of the City of Miles City is hereby empowered and authorized to execute said document on behalf of the City of Miles City, and bind the City of Miles City thereto.

SAID RESOLUTION FINALLY PASSED AND ADOPTED BY A DULY CONSTITUTED QUORUM OF THE CITY COUNCIL OF THE CITY OF MILES CITY, MONTANA, AT A REGULAR MEETING THIS 23rd DAY OF APRIL, 2019.

John Hollowell, Mayor

ATTEST:

Lorrie Pearce, City Clerk



CONTRACT

I. Parties

Board by Board Construction, herewithin referred to as Contractor, whose business address is Po Box 964, Miles City, MT; and City of Miles City, herewithin referred to as Owners whose mailing address is P.O. Box 910 with work being performed at 1502 N Montana Ave, Miles City MT hereby enter into this agreement on this day of 4/17/2019 as follows: .

III. The Scope of the Work

The Contractor will furnish the labor and materials necessary to do the following:

(See attached bid for scope of work)

IV. Change Orders

All change orders must be in writing and signed by all the parties. The Owners agree that changes resulting in the furnishing of additional labor or materials will be paid for prior to the commencement of the extra work. The Owners agree that either of them may sign a change order, and that signature will be binding on both.

V. Permits, Licenses, and Approvals

The Contractor will obtain and pay for local building and construction permits, and will obtain and pay the fees for the governmental inspections that are necessary for the construction and occupancy of the finished structure, except as otherwise provided in this contract. The Owners will secure and pay for any easements, variances, zoning changes, necessary modifications of restrictive covenants, or other actions. The Owners will indicate the property lines to the Contractor and will provide boundary stakes by a licensed land surveyor if the Owners are in doubt about the property boundaries.

VI. Insurance and Risk of Loss

The Owners agree to maintain insurance covering the replacement cost of the improvement under contract in the event of loss through fire, casualty, storm or other disasters, and theft of

materials from the site. Upon request, the Owners will furnish a certificate of that insurance to the Contractor. The Contractor agrees to maintain workers' compensation insurance and liability insurance to protect the Owners from liability claims for damages because of bodily injury, including death, and from liability for damages to property. Before beginning the work, the Contractor will furnish a certificate of that insurance to the Owners.

VII. Access

The Owners will allow free access to work areas for workers and vehicles and will allow areas for the storage of materials and debris. Driveways will be kept clear for the movement of vehicles during work hours. The Contractor will make reasonable efforts to protect driveways, lawns, shrubs, and other vegetation.

VIII. Site Conditions

The Owners acknowledge that this contract is based upon the Contractor's observation of conditions. Conditions which could not be known by a reasonable inspection, such as termite damage, hidden water damage, hidden code violations, or other concealed conditions, may require extra labor or materials, which are not part of this contract. If such hidden conditions are discovered, the Contractor will notify the Owners and will attempt to reach an agreement for a change order to this contract that addresses those problems.

IX. Payment

Contract Prices

- In addition to any other charges specified in this agreement, Owners agree to pay Contractor a total of **\$93,895.62** for the work outlined in bid.

XI. Interest and Withheld Payments

Payments due and not paid under the contract documents shall bear interest from the date payment is due at an annual rate of 12%.

Any portion of the payment due will not be withheld on work already satisfactorily completed. Payment will only be withheld at the time of final inspection (see paragraph XI. Final Inspections and Liens)

XI. Final Inspections and Liens

Upon notification by the Contractor of substantial completion of the work, the Owners and the Contractor will inspect the work performed, and at that time the Owners will prepare a punch list that identifies any incomplete work or deficiencies in workmanship or materials. The Owners may retain the value of the punch list work from the final payment until the punch list items are complete. ~~Completion of the punch list items must be made within 5 days from the date of the punch list preparation.~~ When the punch list items are completed, the Owners will pay the

Contractor the balance of the contract price within 3 days of the demand. At that time, the Contractor will deliver to the property Owners a release of all liens.

XII. Warranties

The Contractor guarantees the work will meet trade standards of good workmanship. The Contractor will make every effort to blend existing textures, colors, and planes, but exact duplication is not guaranteed. The Contractor warrants that materials of good quality will be selected. The Contractor will maintain all manufacturers' warranties. The customer is limited to the manufacturers' warranties for defects in the manufacture of materials. All Contractors' warranties are limited to a period of no more than 24 months. The Contractor's warranties are limited to the cost of labor and materials only, and exclude ordinary wear and tear or abuse by others.

XIII. Dispute Resolution

If a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by a mediator experienced in Construction Industry Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. The mediator will award reasonable costs and expenses to the prevailing party.

XIV. Signatures

We, the undersigned, have read and understood this entire contract, including documents attached by reference. We acknowledge that this document constitutes the entire agreement between the parties. This contract is not binding upon the Contractor or the Owners until it is signed by all parties.

Dated: 4-16-19 Signed: 
Contractor

Dated: _____ Signed: _____
Owner

Dated: _____ Signed: _____
Owner



Board By Board

Board By Board Construction. LLC
Eastern Montana Roofing
P.O. Box 964
Miles City, MT
59301

Client: City of Miles City
Property: Bender Park
Miles City, MT 59301
Billing: Po Box 910
Miles City, MT 59301

Operator: BOARDXB

Estimator: Beau

Business: (406) 439-8619
E-mail: boardxb@yahoo.com

Type of Estimate: <NONE>

Date Entered: 5/23/2018

Date Assigned:

Price List: MTSI8X_AUG17

Labor Efficiency: Restoration/Service/Remodel

Estimate: 2018-05-23-0859



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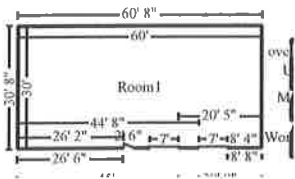
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 Eastern Montana Roofing
 P.O. Box 964
 Miles City, MT
 59301

2018-05-23-0859

Main Level

Main Level

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
50. Dumpster load - Approx. 40 yards, 7-8 tons of debris	1.00 EA	709.00	0.00	0.00	50.34	759.34
51. General Demolition - per hour	60.00 HR	37.25	0.00	0.00	158.69	2,393.69
Total: Main Level				0.00	209.03	3,153.03



Room 1

Height: 14' 6"

2,610.00 SF Walls	1,800.00 SF Ceiling
4,410.00 SF Walls & Ceiling	1,800.00 SF Floor
200.00 SY Flooring	180.00 LF Floor Perimeter
180.00 LF Ceil. Perimeter	

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
1. Remove Draple roll insulation - vinyl faced - R11	4,320.00 SF	0.35	0.00	0.00	107.35	1,619.35
44. R&R Metal outside corner post	28.00 LF	0.93	5.57	0.00	12.92	194.92
42. R&R Metal roofing - ribbed - 26 gauge - 1 1/8" to 1 1/2"	480.00 SF	0.38	5.85	0.00	212.32	3,202.72
40. Clean with pressure/chemical spray	8,640.00 SF	0.00	0.29	0.00	177.90	2,683.50
39. R&R Sprayed polyurethane foam - 2lb mix - per inch thick (do to rib in metal 30% to the building SQ FT must be added)	14,256.00 SF	0.00	1.15	0.00	1,164.00	17,558.40
13. Fire retardant coating over foam	4,320.00 SF	0.00	1.36	0.00	417.14	6,292.34
47. R&R 2" x 6" lumber (1 BF per LF) (wall to fill in over head door)	180.00 LF	0.45	1.98	0.00	31.06	468.46
48. R&R Sheathing - OSB - 1/2"	144.00 SF	0.42	1.07	0.00	15.23	229.79
49. Sill seal foam - 6"	12.00 LF	0.00	0.26	0.00	0.22	3.34
Totals: Room 1				0.00	2,138.14	32,252.82

Framing

Framing

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
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 Miles City, MT
 59301

CONTINUED - Framing

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
54. R&R 2" x 6" lumber (1 BF per LF) (Walls)	1,540.00 LF	0.00	1.98	0.00	216.49	3,265.69
55. R&R 2" x 8" lumber (1.33 BF per LF) (Ceiling)	1,376.00 LF	0.00	2.38	0.00	232.52	3,507.40
Total: Framing				0.00	449.01	6,773.09

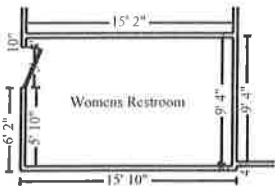
Utility Room

Height: 8'



275.17 SF Walls	30.40 SF Ceiling
305.57 SF Walls & Ceiling	30.40 SF Floor
3.38 SY Flooring	34.40 LF Floor Perimeter
34.40 LF Ceil. Perimeter	

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
59. Batt insulation - 6" - R21 - paper faced	275.17 SF	0.00	1.23	0.00	24.03	362.49
60. Batt insulation - 12" - R38 - paper faced	30.40 SF	0.00	1.52	0.00	3.28	49.49
57. 5/8" drywall - hung, taped, with smooth wall finish	305.57 SF	0.00	2.62	0.00	56.84	857.43
61. Seal the walls and ceiling w/latex based stain blocker - one coat	305.57 SF	0.00	0.56	0.00	12.15	183.27
63. 5/8" drywall - hung, taped, with smooth wall finish (Outside of wall)	46.50 SF	0.00	2.62	0.00	8.65	130.48
Totals: Utility Room				0.00	104.95	1,583.16
Total: Framing				0.00	553.96	8,356.25



Womens Restroom

Height: 10'

493.96 SF Walls	144.38 SF Ceiling
638.35 SF Walls & Ceiling	144.38 SF Floor
16.04 SY Flooring	49.40 LF Floor Perimeter
49.40 LF Ceil. Perimeter	

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
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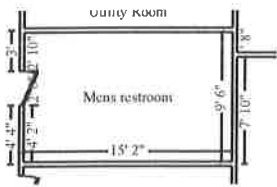


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CONTINUED - Womens Restroom

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
64. 5/8" drywall - hung, taped, with smooth wall finish	638.35 SF	0.00	2.62	0.00	118.75	1,791.23
65. Batt insulation - 6" - R21 - paper faced	493.96 SF	0.00	1.23	0.00	43.14	650.71
66. Batt insulation - 12" - R38 - paper faced	144.38 SF	0.00	1.52	0.00	15.58	235.04
67. Seal the walls and ceiling w/latex based stain blocker - one coat	638.35 SF	0.00	0.56	0.00	25.38	382.86
68. 1/2" drywall - hung, taped, with smooth wall finish	162.00 SF	0.00	2.41	0.00	27.72	418.14
69. Fiberglass reinforced plastic (FRP) paneling	638.35 SF	0.00	4.41	0.00	199.87	3,014.99
79. Steel door, 3' x 7' - fire rated	1.00 EA	0.00	1,500.00	0.00	106.50	1,606.50
Totals: Womens Restroom				0.00	536.94	8,099.47



Mens restroom

Height: 8'

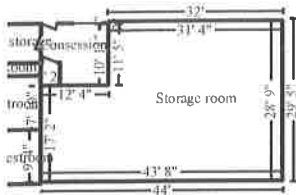
395.17 SF Walls	144.38 SF Ceiling
539.55 SF Walls & Ceiling	144.38 SF Floor
16.04 SY Flooring	49.40 LF Floor Perimeter
49.40 LF Ceil. Perimeter	

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
71. Batt insulation - 6" - R21 - paper faced	152.00 SF	0.00	1.23	0.00	13.28	200.24
72. Batt insulation - 12" - R38 - paper faced	144.38 SF	0.00	1.52	0.00	15.58	235.04
74. Seal the walls and ceiling w/latex based stain blocker - one coat	539.55 SF	0.00	0.56	0.00	21.45	323.60
75. Fiberglass reinforced plastic (FRP) paneling	539.55 SF	0.00	4.41	0.00	168.94	2,548.36
76. 5/8" drywall - hung, taped, with smooth wall finish	155.00 SF	0.00	2.62	0.00	28.83	434.93
73. 5/8" drywall - hung, taped, with smooth wall finish	539.55 SF	0.00	2.62	0.00	100.36	1,513.98
77. Steel door, 3' x 7' - fire rated	1.00 EA	0.00	1,500.00	0.00	106.50	1,606.50
Totals: Mens restroom				0.00	454.94	6,862.65



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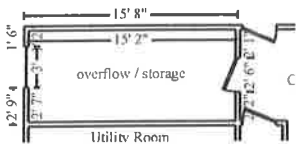


Storage room

Height: 10'

1,448.33 SF Walls	1,112.56 SF Ceiling
2,560.89 SF Walls & Ceiling	1,112.56 SF Floor
123.62 SY Flooring	144.83 LF Floor Perimeter
144.83 LF Ceil. Perimeter	

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
80. 5/8" drywall - hung, taped, with smooth wall finish	400.00 SF	0.00	2.62	0.00	74.41	1,122.41
81. Seal the surface area w/latex based stain blocker - one coat	400.00 SF	0.00	0.56	0.00	15.90	239.90
82. Paint the surface area - two coats	400.00 SF	0.00	0.87	0.00	24.71	372.71
Totals: Storage room				0.00	115.02	1,735.02



overflow / storage

Height: 8'

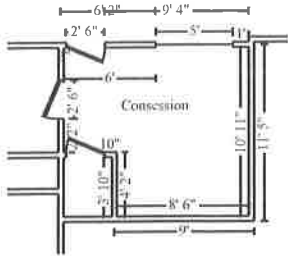
351.17 SF Walls	102.59 SF Ceiling
453.76 SF Walls & Ceiling	102.59 SF Floor
11.40 SY Flooring	43.90 LF Floor Perimeter
43.90 LF Ceil. Perimeter	

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
84. Batt insulation - 6" - R21 - paper faced	242.66 SF	0.00	1.23	0.00	21.19	319.66
86. Seal the walls and ceiling w/latex based stain blocker - one coat	453.76 SF	0.00	0.56	0.00	18.04	272.15
87. Fiberglass reinforced plastic (FRP) paneling	453.76 SF	0.00	4.41	0.00	142.08	2,143.16
83. 5/8" drywall - hung, taped, with smooth wall finish	453.76 SF	0.00	2.62	0.00	84.41	1,273.26
85. Batt insulation - 12" - R38 - paper faced	102.59 SF	0.00	1.52	0.00	11.07	167.01
88. 5/8" drywall - hung, taped, with smooth wall finish	120.00 SF	0.00	2.62	0.00	22.32	336.72
90. R&R Steel door, 3' x 7' - fire rated	1.00 EA	0.00	1,500.00	0.00	106.50	1,606.50
Totals: overflow / storage				0.00	405.61	6,118.46



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Consession

Height: 8'

366.67 SF Walls
 483.22 SF Walls & Ceiling
 12.95 SY Flooring
 45.83 LF Ceil. Perimeter

116.55 SF Ceiling
 116.55 SF Floor
 45.83 LF Floor Perimeter

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
91. 5/8" drywall - hung, taped, with smooth wall finish	305.31 SF	0.00	2.62	0.00	56.80	856.71
93. Batt insulation - 4" - R11 - paper faced	366.67 SF	0.00	0.70	0.00	18.22	274.89
95. Batt insulation - 12" - R38 - paper faced	116.55 SF	0.00	1.52	0.00	12.58	189.74
94. Paint the walls and ceiling - one coat	483.22 SF	0.00	0.60	0.00	20.59	310.52
96. Fiberglass reinforced plastic (FRP) paneling	483.22 SF	0.00	4.41	0.00	151.30	2,282.30
97. 5/8" drywall - hung, taped, with smooth wall finish	116.55 SF	0.00	2.62	0.00	21.68	327.04
98. R&R Steel door, 3' x 7' - fire rated	1.00 EA	0.00	1,500.00	0.00	106.50	1,606.50
Totals: Consession				0.00	387.67	5,847.70

Roof

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
99. R&R Metal roofing - ribbed - 26 gauge - 1 1/8" to 1 1/2"	1,866.61 SF	0.38	5.85	0.00	825.66	12,454.64
100. R&R Gable trim for metal roofing - 26 gauge	64.00 LF	0.62	5.91	0.00	29.66	447.58
Totals: Roof				0.00	855.32	12,902.22

Bathroom stalls

DESCRIPTION	QTY	REMOVE	REPLACE	TAX	O&P	TOTAL
101. R&R stainless steel stall (Bid)	1.00 EA	0.00	8,000.00	0.00	568.00	8,568.00
Totals: Bathroom stalls				0.00	568.00	8,568.00



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 Miles City, MT
 59301

Total: Main Level	0.00	6,224.63	93,895.62
Line Item Totals: 2018-05-23-0859	0.00	6,224.63	93,895.62

Additional Charges	Charge		
Permit			900.00
Additional Charges Total			\$900.00

Grand Total Areas:

5,940.48 SF Walls	3,450.86 SF Ceiling	9,391.33 SF Walls and Ceiling
3,450.86 SF Floor	383.43 SY Flooring	547.75 LF Floor Perimeter
0.00 SF Long Wall	0.00 SF Short Wall	547.75 LF Ceil. Perimeter
3,450.86 Floor Area	3,605.45 Total Area	5,940.48 Interior Wall Area
4,839.98 Exterior Wall Area	375.83 Exterior Perimeter of Walls	
0.00 Surface Area	0.00 Number of Squares	0.00 Total Perimeter Length
0.00 Total Ridge Length	0.00 Total Hip Length	

