

REGULAR COUNCIL MEETING May 28, 2019 6:00 p.m.

CALL TO ORDER

The Regular Council meeting was held Tuesday, May 28, 2019, in the City Hall Conference Room at City Hall, 17 S. 8th Street, Miles City, Montana. Mayor Hollowell called the meeting to order. Council Members present were Susanne Galbraith, Brant Kassner, Ken Gardner, John Uden, Rick Huber, Jeff Erlenbusch and Kathy Wilcox. Councilperson Dwayne Andrews was excused.

Also present were City Attorney Dan Rice, Public Works Director Scott Gray, Public Utilities Director Tom Speelmon, Fire Chief Branden Stevens, Police Officer Coy Sheets, Flood Plain Administrator/Auto Cad/Assistant PWPV Samantha Malenovsky, and City Clerk/Minute Recorder Lorrie Pearce.

PLEDGE OF ALLEGIANCE

Mayor Hollowell led the Council in the Pledge of Allegiance.

APPROVAL OF COUNCIL & COMMITTEE MINUTES

City Council Minutes: 5/14/2019

** *Councilperson Gardner moved to approve the minutes of the Regular Council Meeting of May 14, 2019, and seconded by Councilperson Erlenbusch. The motion passed by unanimous consent, 7-0.*

Public Safety Committee Minutes: 5/2/2019

Public Safety Committee Meeting May 2, 2019

The Public Safety Committee met Thursday, May 2, 2019, at 5:30 pm in the Human Resources Office, 17 S. 8th. Present were Committee Members Kathy Wilcox, Ken Gardner and Jeff Erlenbusch. Committee Member John Uden was excused. Also present were: Police Chief Doug Colombik, Dispatch Supervisor, Fire Chief Branden Stevens and Human Resources Officer/Recorder Linda Wilkins.

Committee Member Wilcox called the meeting to order.

1. Election of Chairperson

***Committee Member Erlenbusch nominated Committee Member Uden for Chairperson of the Public Safety Committee. Committee Member Gardner seconded the nomination.*

***Committee Member Erlenbusch moved that nominations be closed, seconded by Committee Member Gardner.*

***On unanimous consent Committee Member Uden was elected Chairperson, 3-0.*

2. Request of Citizens

None

3. Committee Member Comments

Acting Chairperson Wilcox moved Item #5 ahead of Item #4 on the agenda.

4. Review and recommendation Discharge of Fireworks July 4th

Chief Stevens requested that if a Red Flag Warning was issued that the discharge of all fireworks be prohibited with in the City limits. The committee agreed that this should be added to the resolution this year. There was discussion on the hazards of discharging fireworks in Denton Complex and the mess that is left for city employees to clean up the day following the 4th. Committee members discussed the possibility of the fireworks display moving out to the fairgrounds at the grand stand. This would allow people to sit in the grandstands to view the fireworks display. There was discussion on how the community of Laurel handled the discharge of fireworks. The committee requested that

Recorder Wilkins get a copy of Laurel's resolution. The committee would contact the Mayor and see if he would contact the Fair Board and the VFW to see if this is a possibility. Committee Member Erlenbusch would get a hold of Keep America Beautiful to see if they would place more trash cans in the park.

***Committee Member Erlenbusch moved to have the resolution go to council for discussion with the language changes made as discussed, seconded by Committee Member Gardner and passed unanimously; 3-0.*

Prior to reviewing the Miles City Police Department Policy and Procedure Manual, Chief Stevens and Dispatch Supervisor Anderson requested time to review with the Committee the changes to EMS dispatches. There will be three levels of medical calls. The level of the call will dictate the number of personnel and vehicles that will be dispatched to the call. Dispatchers will receive training on evaluating emergency calls for dispatch. The changes have been reviewed by the Medical Director and will go into effect June 1. There will be a few bumps in the beginning as dispatchers are trained. There will be discussion and an evaluation on how the new call system is working. The Committee appreciated the update.

5. Review and recommendation Miles City Police Department Policy & Procedure Manual

Chief Colombik presented a copy of Resolution 3783 which included a contract for new police officers for reimbursement of training costs. He believes that it is vital to have this contract in place to help the department. He thought it was on the books, but would have the contract reviewed by City Attorney Rice.

***Committee Member Gardner moved to have the contract reviewed by the City Attorney and bring it back to committee, Committee Member Erlenbusch seconded and passed by unanimous consent; 3-0.*

The "Canine Policy" was reviewed. This is a new policy.

***Committee Member Erlenbusch moved to approve the "Canine Policy", seconded by Committee Member Gardner and passed by unanimous consent; 3-0.*

The "Taser X26-Electronic Control Device (ECD) Policy" revisions to target areas were reviewed.

***Committee Member Erlenbusch moved to approve the revisions to the "Taser X26-Electronic Control Device (ECD) Policy", seconded by Committee Member Gardner and passed by unanimous consent; 3-0.*

The "Weapons Policy" revision on page 2 #5 Off Duty/Back-up Guns was reviewed.

***Committee Member Erlenbusch moved to approve the revision to the "Weapons Policy", seconded by Committee Member Gardner and passed by unanimous consent; 3-0.*

The "Lost and Found Policy" revision of Item 2 Retention changed the number of days to hold an item from 90 days to three months was reviewed.

***Committee Member Gardner moved to approve the revision to the "Lost and Found Policy", seconded by Committee Member Erlenbusch and passed by unanimous consent; 3-0.*

The "Body Worn Cameras Policy" was simplified and revised to allow officers to record anything that they feel needs to be recorded and once the body camera is on it stays on.

***Committee Member Gardner moved to approve the revision to the "Body Worn Cameras Policy", seconded by Committee Member Erlenbusch and passed by unanimous consent; 3-0.*

The "Social Media Policy" was reviewed. This is a new policy.

***Committee Member Erlenbusch moved to approve the "Social Media Policy", seconded by Committee Member Gardner and passed by unanimous consent; 3-0.*

The "Eyewitness Identification Policy" was reviewed. This policy comes from the Montana Law Enforcement Academy and is one that is being followed by all agencies in Montana. This is a new policy.

***Committee Member Gardner moved to approve the "Eyewitness Identification Policy", seconded by Committee Member Erlenbusch and passed by unanimous consent; 3-0.*

The "Lineup Policy" was deleted from the Police Policy and Procedure Manual as the "Eyewitness Identification Policy" replaces it.

***Committee Member Erlenbusch moved to delete the "Lineup Policy"; seconded by Committee Member Erlenbusch and passed by unanimous consent; 3-0.*

6. Adjournment

The following meetings were scheduled for the Public Safety Committee:

May 16, 2019 @ 5:00 p.m.

June 20, 2019 @ 5:00 p.m.

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

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

*** Councilperson Uden moved to approve the minutes of the Public Safety Meeting of May 2, 2019, subject to any corrections and seconded by Councilperson Galbraith. The motion passed by unanimous consent. 7-0.*

SCHEDULE MEETINGS

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

Human Resource Committee

June 6th @ 5:30pm

REQUEST OF CITIZENS & PUBLIC COMMENT

None

APPOINTMENTS

Sydney Tharp for confirmation as a Police Officer

*** Councilperson Uden moved to approve the confirmation of Sydney Tharp as a police officer, seconded by Councilperson Erlenbusch. The motion passed unanimously.*

Dustin Sloan for confirmation as a Sergeant

*** Councilperson Galbraith moved to approve the confirmation of Dustin Sloan as a Sergeant, seconded by Councilperson Huber. The motion passed unanimously.*

Amber Trenka- City Representative on Health Board

*** Councilperson Gardner moved to approve Amber Trenka as a City Representative on the Health Board, seconded by Councilperson Wilcox. The motion passed unanimously.*

PROCLAMATIONS

None

STAFF REPORTS

Branden Stevens- Announced that Sarah Lewin was awarded the Career Emergency Medical Service Provider for the State of Montana. He added, he was proud of her and thanked her for doing so much for the department and community. He also announced Elliot Grayson completed paramedic school, which makes him the fourth paramedic for the department. Captain Lewin said it takes over one year of classroom and six months on site training to complete the paramedic training.

CITY COUNCIL COMMENTS

John Uden- Asked the Mayor to appoint a committee to make plans for the future of City Hall and its employees. He said he hates surprises and since the Building Inspector has notified the City that City Hall will probably be condemned in the future, he thought a plan should be put in place. Added that the ambulances response at the Bucking Horse Sale was outstanding.

Susanne Galbraith- She felt that an engineer should be hired to inspect City Hall and asked what is happening with the house at 911 Garland and the burnt one on Knight Street. Mayor Hollowell said he would get back to Council on the issues by the next Council meeting.

Rick Huber- Said the town looked great for the Bucking Horse Sale and asked when Milwaukee Park was getting mowed. Director Gray said when it dries out.

Ken Gardner- Received a call on an open basement structure on Cottage. The caller is worried that kids will fall in it and get hurt. The public nuisance on Bridge street is starting to look good and he will be absent for the June 25th Council meeting.

**** Councilperson Galbraith moved to approve Councilperson Gardner's absent, seconded by Councilperson Uden. Motion passed 6-1, with Councilperson Kassner voting no.**

MAYOR COMMENTS

None

COMMITTEE RECOMMENDATIONS

Finance Committee- Split Custer County Water/Sewer District litigation cost, one third to General Fund, one third to Sewer and one third to Water

**** Councilperson Galbraith moved to approve splitting the Custer County Water/Sewer District litigation cost by one third to General Fund, Sewer and Water, seconded by Councilperson Kassner. Motion passed unanimously.**

Finance Committee- Advise Solestone to reimburse \$19,000 in one lump sum

**** Councilperson Galbraith moved to approve Solestone reimbursing the City the lump sum of \$19,000 minus the money not billed for, seconded by Councilperson Uden. Motion passed unanimously**

BID OPENINGS

None

BID AWARDS

Trailer Mounted Breathing System-

**** Councilperson Wilcox moved to approve the bid received from L.N. Curtis for an amount of \$86,267, seconded by Councilperson Huber. Motion passed unanimously**

Self-Contained Breathing Apparatus-

**** Councilperson Wilcox moved to approve the bid received from L.N. Curtis for an amount of \$1,051,493, seconded by Councilperson Huber. Motion passed unanimously**

Darling Addition- Phase II

**** Councilperson Galbraith moved to approve the bid received from Western Municipal Construction, Inc for an amount of \$2,397,713.50, seconded by Councilperson Kassner. Motion passed unanimously**

PUBLIC HEARINGS

A. ORDINANCE NO. 1333- An Ordinance Amending Section 23-1 of the Code of Ordinances of Miles City, Montana, Removing the Definition of Sewer and/or Water Service

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

B. ORDINANCE NO. 1334- An Ordinance Amending Ordinance Nos. 1054,1056,1093 and 1133 Establishing New Rates for the Use of the Miles City Ambulance

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

UNFINISHED BUSINESS

A. RESOLUTION NO. 4252- A Resolution Approving a 10-year Blanket Variance for Westwood Estates Trailer Park Allowing for Replacement of Mobile Homes at an Elevation of 48" Above Grade

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

Paul Ellis, owner of Westwood Estates Trailer Park presented the following to Council:

- Was disappointed with the variance process which has cost him approximately \$20,000
- He owns four of the sixty-eight mobile homes in the park. If any of the sixty-four mobile homes need replaced the owners can not afford building the lot up to eight feet and the excessive height would affect the handicapped and elderly people
- Only one person that actually lives in the park was notified of the hearing
- Would like to go to 36 inches instead of 48 inches and felt it would not affect the CRS rating for the City
- Had several discussions with ISO, FEMA, DNRC and NFIP
- In the discussions with an ISO specialist he found the following:
 1. They are under contract with FEMA and NFIP, to administrate and award points to a Community. The ISO Specialist is responsible for reviewing request for CRS classification verifying the implementation of the activities credited by the CRS. The ISO and CRS specialist are the City's main contact with the CRS program. Communities are encouraged to submit material to ISO for courtesy review. Floodplain Administrator submitted a request for a courtesy review for a granting of a variance, but it was denied. They can however complete a courtesy review for elevation certificates and the impact of the 430 higher regulation standards (freeboard activity)
 2. After talking with many floodplain communities in Montana, it is clear that FEMA and DNRC does not want communities to approve any variance. Especially variances that are arbitrarily regulated to the height of the base flood elevation. He felt they are fearful that it would set a precedent
 3. The City ordinance specifies that on a residential construction alteration, and substantial improvement of residential dwellings, manufactured homes, including replacement of manufactured homes, must be constructed such that: Elevation of the lowest floor of the building, including attached garage or basement must be two feet or more above base flood elevation. Many homes in the park would be

- replaced at about eight feet high.
4. FEMA and NFIP regulations understand that manufactured homes especially ones in existing mobile home parks should be treated differently than other residential homes. NFIP standards for mobile homes are allowed to be set at no less than 36 inches in height above the ground. DNRC and the city's regulations do not allow the 36 inches. For the City to allow him to set the mobile homes at four feet above the ground would be a direct violation for the city. No where in the ordinance does it say that mobile homes can be set at four or five feet. He found that with the City allowing him to set the mobile homes at four feet the City would lose CRS points, so he did not know why it could not be adjusted to three feet. He did not feel that the City would lose that many more points
 5. He felt the word "could" is being used to threaten the city into not granting variances
 6. He is asking to set mobile homes at FEMA minimum requirements.
 7. Found that in five years there were only seven new buildings permits applied for in the flood zone
 8. Wondered why FEMA, ISO and the City is focusing on one single activity, (430 higher elevations regulation) where there are ninety-two others. He felt the City could use the other ninety-two activities to gain points, such as 520 acquisition and relocation of buildings
 9. He provides 38,800 square foot of storm drains to the City and felt the City could gain points on that
 10. City of Glendive is enrolled with NFIP, but not the CRS program and they are being allowed to set their manufacturing homes at 36 inches above the ground. This has not affected their NFIP standing and their property insurance is 60-80 percent less than Miles City
 11. Felt the City is making the process harder than needed to be

Councils, Mayor, Floodplain Administrator response to Mr. Ellis:

- State has own rules compared to FEMA. The City has to follow the rules handed down by the State. The City does not want to set precedent because residents could lose by paying higher property insurance
- The City could come down to Federal regulations, but cannot override State regulations
- The community chose to voluntarily be part of the community rating system, which gives a ten percent discount to those in zone A. The city requires all property to be two feet above the base board, which gives the City 220 free board credit points. ISO and FEMA require the City to be at federal standards, which is 36 inches, plus have a higher regulatory standard which is the free board. That is where the 48 inches comes in.
- Anything less than 36 inches plus the freeboard would make the city lose 100 point and classify the City as Class 9.
- Glendive is now working with NFIP and trying to become compliant with their regulations. Miles City has always worked with NFIP
- Public notice states that adjacent real property owners need to be notified

** *Councilperson Uden called for question, and with no second the motion failed*

Council, Mayor, Floodplain Administrator proceeded to explain:

- Class 9 saves Miles City home owners \$29,000, Class 8 saves \$42,000, and Class 7 saves \$56,000. By being in the NFIP program, it helps keep the money local. Average insurance premium is \$587, which is on the low end of normal
- The money that leaves the area is potentially 2 million dollars
- The 36-inch rule is from FEMA and the 2-foot rule is from the State. When the City wrote the flood ordinance, the City did not get to decide

on what to put in the ordinance for the CRS program, it had to follow State regulations. Council decided that 8-feet is to much for mobile homes, but the City can not approve anything below the 36-inches. The flood administrator has recommended 48 inches because of the CRS points, but Council can approve the 36 inches

- The State does not like the blanket variance process, but FEMA has backed the City, so the City is working as hard as possible to make it easier for our citizens
- The City understands the hardship and concerns, but where do you draw the line. The Resolution shows the City is willing to accept losing points

Resident Elizabeth Patten, 612 South Montana Street, stated that she felt the City should not decide for one person that could cost home owners a lot of money. She does not want her insurance to increase. She would like to see any discount available and keep it in the community to provide jobs for other people

***Councilperson Huber moved to postpone the decision on the resolution, until July 23rd, seconded by Councilperson Uden. On roll call vote, the motion passed by unanimous consent, 7-0. Resolution No. 4252 was postponed until the July 23rd Council Meeting*

B. ORDINANCE NO. 1333- (Second Reading) An Ordinance Amending Section 23-1 of the Code of Ordinances of Miles City, Montana, Removing the Definition of Sewer and/or Water Service

*** Councilperson Galbraith moved to approve the Ordinance, read by title only and seconded by Councilperson Huber. On roll call vote, the motion passed by unanimous consent, 7-0. Ordinance No. 1333 passed.*

C. ORDINANCE NO. 1334- (Second Reading) An Ordinance Amending Ordinance Nos. 1054,1056,1093 and 1133 Establishing New Rates for the Use of the Miles City Ambulance

*** Councilperson Galbraith moved to approve the Ordinance, read by title only and seconded by Councilperson Erlenbusch. On roll call vote, the motion passed by unanimous consent, 7-0. Ordinance No. 1334 passed.*

NEW BUSINESS

A. Presentation on Square 9 vs Image Silo from DIS Representative
Presentation was cancelled

B. RESOLUTION NO. 4247- A Resolution Authorizing the City of Miles City to Enter Into a Contract Amendment With the Montana Department of Commerce Coal Board

*** Councilperson Erlenbusch moved to approve the Resolution, read by title only and seconded by Councilperson Huber. On roll call vote, the motion passed by unanimous consent, 7-0. Resolution No. 4247 passed*

C. RESOLUTION NO. 4248- A Resolution Approving the Request for Release of Airport Property

*** Councilperson Galbraith moved to refer the Resolution to the Finance Committee and seconded by Councilperson Uden. On roll call vote, the motion passed 7-0.*

D. RESOLUTION NO. 4249- A Resolution Authorizing the City of Miles City to Enter Into an Agreement With Western Municipal Construction, Inc., for Water Main, Sanitary Sewer, Storm Drain, and Street

Improvements

- ** *Councilperson Erlenbusch moved to approve the Resolution, read by title only and seconded by Councilperson Huber. On roll call vote, the motion passed by unanimous consent, 7-0. Resolution No. 4249 passed*
- E. **RESOLUTION NO. 4253-** A Resolution Authorizing the City of Miles City to Enter Into an Agreement With the Custer County Water and Sewer District for Flushing Hydrants in Calendar Year 2019
- ** *Councilperson Uden moved to approve the Resolution, read by title only and seconded by Councilperson Huber. On roll call vote, the motion passed 7-0. Resolution No. 4253 passed*
- F. **RESOLUTION NO. 4254- (First 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 and seconded by Councilperson Gardner. On roll call vote, the motion passed by unanimous consent, 7-0. Resolution No. 4254 passed first reading*

AJOURNMENT

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

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


John Hollowell, Mayor


Lorrié Pearce, City Clerk