

## **REGULAR COUNCIL MEETING July 23, 2019 6:00 p.m.**

### **CALL TO ORDER**

The Regular Council meeting was held Tuesday, July 23, 2019, in the City Hall Conference Room at City Hall, 17 S. 8<sup>th</sup> Street, Miles City, Montana. Councilperson Susanne Galbraith called the meeting to order. Council Members present were Brant Kassner, Ken Gardner, John Uden, Rick Huber, Kathy Wilcox and Susanne Galbraith.

Also present were City Attorney Dan Rice, Public Utilities Director Tom Speelmon, Police Chief Doug Colombik, Dispatch Supervisor Lyne Anderson, Flood Plain Administrator Sam Malenovsky, 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: 7/09/2019**

\*\* *Councilperson Uden moved to approve the minutes of the Regular Council Meeting of July 9, 2019, subject to any changes, and seconded by Councilperson Galbraith. The motion passed by unanimous consent, 6-0.*

### **SCHEDULE MEETINGS**

None

### **REQUEST OF CITIZENS & PUBLIC COMMENT**

#### **Update from Miles Community College Softball on Bender Park # 3 Field**

- Jerry Olson from Miles Community College gave an update on the progress and future plans of Bender Park #3 Field. He thanked Stevenson Design, even though they are not using them. He informed the council that he had been speaking with the Public Works Director about the restroom and a possible locker room with no plumbing or showers. A scoreboard was donated to them that they intend to put up. He spoke about the crownsnest from Custer County District High School that they may purchase and put up at Bender Park.
- John Laney added that the financial figures were drastically lower than what was originally planned.

#### **Doug Phair- Update on Coal Board Grant for Runway Project 2020-2021**

- Airport Commissioner Doug Phair first announced the completion of runway 0422 that began in 2015. He also pointed out that it was done without any city funding. He explained that with the Coal Board Grant and the Federal Aviation Administration (FAA) funding approximately ninety percent of the project, they did not need any additional funds. Then he gave an update on the progress and future plans of runway project 2020-2021. This new project is expected to cost around four million dollars, in which they intend to apply for another Coal Board Grant and receive funding from the FAA and the Montana Aeronautical Program. He explained that the Coal Board now has an environmental impact study requirement to apply for the grant. They had a categorical exclusion survey done and the results need to be approved by the council.
- Craig Canfield from Kadrmas Lee and Jackson Incorporated (KLJ) presented a handout showing where the Phase II project is to take place, how much each portion of the project is going to cost and which runways would be affected by the project. He broke down what funds they are expecting to receive. For the

four million dollar project, ninety percent of the funding will come from the FAA, approximately one hundred thousand dollars will come from the Coal Board Grant, and approximately one hundred and seventy thousand will come from Montana Aeronautical Program. In August they will be receiving a grant to help with design costs. They will be accepting bids for the project in late 2020, and it is expected to be completed by late 2021.

#### **Austin Lott, Representative of Miles City Youth Coalition**

- President Harmony Lott explained the Miles City Youth Coalition (MCYC) helps teens progress into adulthood. It gives them a type of “safe haven” and they also build the spiritual side of teens for those who seek it.
- Secretary, Austin Lott wanted to ask permission of the council to rent the Oasis swimming pool to host a private event for approximately 30-40 people between the ages of 13 and 18 the following Saturday. He asked to utilize the current Oasis lifeguards for their event. He stated that they would reimburse the city for the cost of wages for the lifeguards. They have insurance and will ensure that it meets the amount required by the city prior to the event.
- Councilperson Uden expressed concern about lifeguards and city liability.
- Attorney Rice stated that the Oasis is already insured and the city liability would not change.

\*\* *Councilperson Wilcox motioned to approve extended use of the Oasis by Miles City Youth Coalition and seconded by councilperson Gardner.*

- It was then questioned how the council would determine the cost of renting the Oasis. More specifically, how the fee would be determined. Councilperson Huber stated that fees have been left up to the Public Works Director in the past and it seemed to work out alright. He suggested that they do the same in this instance.

\*\* *Councilperson Galbraith made an amended motion to approve extended use of the Oasis by MCYC with Public Works Director Gray determining the cost and seconded by Councilperson Huber. On a straw vote the amended motion passed 6-0.*

#### **APPOINTMENTS**

None

#### **PROCLAMATIONS**

#### **STAFF REPORTS**

- Police Chief Colombik presented the Miles City Police Department’s six month statistics. He explained that some of the charges are lower than the arrests at the moment because they have multiple charges combined or they are not yet convicted. He also wanted to point out that seven out of the eight K-9 calls had meth charges pending.
  - Councilperson Wilcox stated that the statistics looked awful.
  - Councilperson Galbraith requested more information on specifically the strangulation charges. She wanted to know if it was one event where all four charges were made or separate events, to which Police Chief Colombik replied that they were four separate strangulation charges in five days.
- Dispatch Supervisor Anderson informed the council that the 9-1-1 system went completely down last Wednesday. They had no radios or phones and for some reason the generator did not work properly. Ultimately they lost a server, which will be replaced and the generator is being fixed. She wanted to thank the departments and everyone who helped with getting calls answered and the phones/radios back online.

**CITY COUNCIL COMMENTS**

- Councilperson Wilcox informed the council that the results are in for the Surveymonkey survey and she had emailed it to everyone, but had to compact some of the comments into an easier to read document. She would like it added to the next council agenda to discuss some of the comments and come up with a “game plan”.

**MAYOR COMMENTS**

None

**COMMITTEE RECOMMENDATIONS**

None

**BID OPENINGS**

None

**BID AWARDS**

None

**PUBLIC HEARINGS**

- A. RESOLUTION NO. 4264- A Resolution Approving the Adoption of a Categorical Exclusion for the Airport Industrial Site Development Project, indicating no Concern as to Environmental Impact Arising From Said Project**

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 Kassner.*

Councilperson Galbraith stated that with the new information, she is in favor of granting the variance request.

Flood Plain Administrator Malenovsky gave an overview of the criteria that the city would have to meet at the next audit to prevent losing credit with the National Flood Insurance Program’s (NFIP) Community Rating System (CRS) under the Federal Emergency Management Agency (FEMA). She stated that eighty percent of the Elevation Certificates (EC) would have to be correct and pass to maintain credit. Currently, we are a class eight city, after the audit we should drop to a class seven city. Staying at a class eight city will have no impact on the community. Insurance rates now are approximately \$580 on average with the ten percent discount that the community is currently receiving. Remaining at a class eight city in the future depends on how many people will need to receive an EC. The audit cycle has just begun again and the next audit will be in five years. That is when the city will know the impact of granting this variance request. Even if Westwood Estates agreed to raise the required elevation within the trailer park to forty-eight inches above grade the city would still lose points; the point loss is unknown by granting the variance request at thirty-six inches above grade. For every one foot of freeboard the city gains one hundred and ten points. Thirty-six inches above grade is federal regulation for trailers. CRS is the higher standard that the city put in place; the ordinance states it must be two feet above Federal Base Flood Elevation (BFE). She did also state that, in her opinion, building a trailer a total of eight feet in the air was ridiculous. This is

the elevation that Westwood Estates is currently looking at. To treat everyone equally, the city would need to be specific in regards to why Westwood Estates would receive the variance and others would not. She noted that there are other ways to gain CRS points and she will be working on attaining them. Floodplain Administrator Malenovsky suggested amending the resolution from a ten year variance to a five year variance, so the city would have a better understanding of the impact the variance could have on the city.

Mr. Paul Ellis owner of Westwood Estates said that he had personally spent over three hours on the phone with the Insurance Services Office (ISO) trying to understand what the difference was between the federal and the state regulations regarding CRS. He believed he understood that the city would lose CRS points even with forty-eight inches above grade, but that the ISO did not think it would affect the classification system. He is requesting the minimum of thirty-six inches above grade as stated by FEMA. He is insisting on the original request of thirty-six inches above grade to look out for the safety and well-being of his tenants while keeping costs low enough to afford. He stated that he would not be altering the trailer park footprint. He had only replaced seven trailers in the past five years. He recently received permits for two of the trailers already and there are still several empty lots. (He presented photos of the trailers). The empty trailers are not only costing him in lost rent, but also costing the city because there are no taxes being paid on the vacant lots. It doesn't matter how much people build up their homes, the values are dropping because of the floodway/floodplain. He believes that the regulations the city is imposing on the residents will result in creating a ghost town.

Mayor Hollowell noted that the city may be moving to a class seven. He inquired about additional points that could be gained if we lost points for granting the variance request. He pointed out that if the variance was granted for forty-eight inches above grade then the city could retain those freeboard points. He verified that any elevation less than five feet, the city would lose points. He made it clear that before granting a variance the council needs to look out for the best of the community. He also noted that if the city is not at risk of losing its class eight status by granting the variance, there would be no impact on the community.

Westwood Estate's Attorney, Chris Gray, went on record stating that he encourages everyone to get back to the legal matter made back in April of 2019. The resolution as it stands is in denial. The past of speaking about CRS and insurance costs are outside of the regulations themselves. The application is essentially to utilize the federal regulations. The resolution was amended in April to include that every trailer would apply for a separate permit and have separate inspections after replacement. Mr. Gray stated that they are asking for the city to adhere to federal regulations as each mobile home is repaired or replaced. Permitting per mobile home and meeting federal regulation for potentially seventy lots. This variance request is to streamline the process. He would like the resolution amended and granted as amended.

Councilperson Galbraith questioned if we could limit the amount of trailers that are replaced in the Westwood Estates Trailer Park to ensure that the city did get the eighty percent EC pass requirement to maintain credit. This would ultimately limit point loss.

Councilperson Wilcox expressed concern with granting this variance request. If they did grant it, how would they justify the decision when denying others applying for a variance request. She stated that she wanted to treat everyone equitably.

Councilperson Uden shared the same concern as Councilperson

Wilcox regarding equality amongst applicants. He says every person must apply for a variance, so he believes that each trailer within the trailer park to be replaced should have to apply individually. He added that the resolution is written in line with state law.

Public Utilities Director Speelmon said that applying the variance requests equally is what the council is doing. If they were to treat every applicant the same, then all of the applicants would have to meet the variance criteria, which most likely, they would not. This is a unique request.

City Attorney Rice listed all ten of the variance criteria. He then reiterated that Westwood Estates does meet all ten criteria to qualify for a variance, except the possibility of creating an extraordinary expense to the public. He wanted to ensure that this possibility was addressed and discussed before any decisions were made. He did make note that the variance criteria does not include CRS activity. He also said that at the last discussion it was decided to amend the resolution from the thirty-six inches above grade, as originally requested, to the forty-eight inches above grade. Now would be the time to change that back to the thirty-six inches above grade that Mr. Ellis is requesting. The monetary effect of granting the variance will remain unknown until the next audit.

Attorney Gray acknowledged all changes to the motion and resolution and requested that a copy of the amended resolution be sent to him.

\*\* *Councilperson Wilcox moved to Amended Resolution No. 4252- A Resolution Approving a 5-year Blanket Variance for Westwood Estates Trailer Park Allowing for Replacement of Mobile Homes at an Elevation of 36" Above Grade and seconded by Councilperson Galbraith. On roll call vote, the motion passed 5-1 with Councilperson Kassner voting no. Amended Resolution No. 4252 passed.*

### NEW BUSINESS

**A. RESOLUTION NO. 4263- (First Reading) A Resolution Approving the Work Plan and Budget for Fiscal Year 2019-2020 For Business Improvement District No. 101, and Providing for Hearing Thereon**

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

John Laney, representative for the Tourism Business Improvement District (TBID), stated that effective July 1<sup>st</sup>, 2019, the bed tax rates would increase from one dollar per bed per night to two dollars per bed per night. He says that it has been working very well and they are showing a dramatic increase in funding. With the bed tax increase they are looking at approximately \$96,000 annually. He spoke about some of the events/activities that the money goes towards such as the 4C tournament and Southern C girls and boys tournaments. They pay the entrance fee for the schools to ensure they are able to play and the proceeds come back to them for reinvestment. They follow all stipulations and adhere to regulations regarding what they can and cannot do with the funds received. Members attend (TBID) conferences to learn and advertise while gaining a better footing in surrounding communities. They have quarterly meetings to discuss spending decisions.

Councilperson Huber wanted to thank TBID for all they do with the tournament and the community.

\* *On roll call vote, the motion passed by unanimous consent, 6-0.*

*Resolution No. 4263 passed first reading.*

- B. RESOLUTION NO. 4264- A Resolution Approving the Adoption of a Categorical Exclusion for the Airport Industrial Site Development Project, indicating no Concern as to Environmental Impact Arising From Said Project**

**\*\*** *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, 6-0. Resolution No. 4264 passed.*

- C. RESOLUTION NO. 4265- (First Reading) A Resolution Pursuant to §7-6-4006 of the Montana Code Annotated, Authorizing Amendment of Final Budget for FY2018-2019 to Increase the Budgeted Amount in Fund # 5510-010-420730-810 & # 6040-910-430220-346**

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

Attorney Rice stated that he is very concerned that the ambulance is in the red and being budgeted by funding with reserve funds. He also pointed out that the council cannot fund a negative budget if it will still result in a negative budget amount.

Councilperson Galbraith stated that the amendment is due to overspending in the ambulance budget. There is \$25,000 that is utilized for contractual allowances via Medicare/Medicaid billing.

Mayor Hollowell explained that the ambulance fund's indebtedness went from \$330,000 to \$250,000 in the hole at fiscal year-end. The ambulance fund is gaining money every year and is slowly getting itself out of the hole. This amendment allows accounting to monitor every penny and ensures that no one is extorting.

*\* On roll call vote, the motion passed 5-1 with councilperson Uden voting no. Resolution No. 4265 passed first reading.*

- D. RESOLUTION NO. 4266- A Resolution Authorizing the City of Miles City to Enter Into a Montana Department of Administration 9-1-1 Grant Program Contract for Updates and Improvements of 9-1-1 CAD and RMS Systems**

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

Dispatch Supervisor Anderson provided a handout with a brief description of the improvements. She explained that with the new system dispatch will be able to connect with other offices outside of our district that have a shared system, so the information obtained by one office will be available to all offices with Zuercher Technology systems.

*\* On roll call vote, the motion passed by unanimous consent, 6-0. Resolution No. 4266 passed.*

- E. RESOLUTION NO. 4267- (First Reading) A Resolution Pursuant to §7-6-4006 of the Montana Code Annotated, Authorizing Amendment of Final Budget for FY 2018-2019 for State of Montana Payments on Behalf of Retirement Accounts and Providing for Hearing Thereon**

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

Councilperson Galbraith explained that it is basically a bookkeeping thing to account for the state match of the retirement account.

\* On roll call vote, the motion passed by unanimous consent, 6-0.  
**Resolution No. 4267 passed first reading.**

**F. Send \$19,675.49 to Collections for the Ambulance Fund**

\*\* Councilperson Galbraith moved to approve sending \$19,675.49 to Collections for the Ambulance Fund and seconded by Councilperson Huber. On a straw vote the motion passed 6-0.

**G. Approval of June Claims**

\*\* Councilperson Galbraith moved to approve the June claims, seconded by Councilperson Huber and passed unanimously, 6-0.

**ADJOURNMENT**

\*\* Councilperson Uden moved to adjourn the meeting, seconded by Councilperson Galbraith and passed unanimously, 6-0.

The meeting was adjourned at 8:31 p.m.

  
John Hollowell, Mayor

  
Mary Roberts, Deputy Clerk