

City Council Meeting
July 26, 2011

Present: Councilpersons Evan Stewart, Gale Palmer, Dan Becker and Tom Jankowski

Absent: Mayor John Williams

Also Present: City Clerk/Treasurer Michelle Richards, Police Chief Larry Reinlasoder, City Attorney Gary Ryder, Public Works Director John Bleth, and Fire Chief Ryan Reid

Council President Stewart called the meeting to order at 7:00 pm. Following the Pledge of Allegiance, Clerk/Treasurer Richards called the Roll Call.

Consent Agenda:

Councilperson Palmer moved to approve the Consent Agenda. Councilperson Jankowski seconded the motion. Discussion: Councilperson Becker objected to Claim #15928 regarding the amount of dog food purchased for the drug dog. Motion carried with all in favor.

- a. Minutes of 7/11/11 Regular Meeting
- b. Claims Roster 7/22/11
- c. Journal Voucher Nos. 2011-05 & 2011-06
- d. June Treasurer's Report
- e. Cancelled Checks

Departmental Reports:

Reports were given by Chief Reinlasoder, Fire Chief Reid, Public Works Director Bleth, City Attorney Ryder and City Clerk/Treasurer Richards.

Public Comment and Participation:

Jerry Hascall, 4025 Prospector, spoke in favor of the conditional use permit request for Ed Buchholz. Mr. Hascall also stated both his wife and himself are opposed to city employees serving on the City Council due to the obvious conflict of interest.

Larry Reinlasoder, resident at 11A Larkspur and a city employee, expressed his opinion that the ordinance prohibiting city employees from serving on the City Council should not have had to been adopted since employees should not serve on City Council or as Mayor. City employees are servants of the public and may have the situation where employees on the city council may become masters instead of servants of the public. There is specific law prohibiting police officers from serving on the council. As a citizen and registered voter of the City of Colstrip, he feels it is bad government and bad practice to allow employees to serve on the council.

Rose Hanser, 10 Juniper, expressed her concern about any initiative rescinding Ordinance 2009-01. The US Supreme Court does have a ruling against incompatible offices and being your own boss is incompatible.

Janetta Dudley, 6820 Cimarron, stated the Colstrip Park and Recreation District board made very few decisions that did not affect her as an employee. Just about everything that the city council votes on affects employees one way or another. She is against repealing Ordinance 2009-01.

Joe Oberth, 7439 Castlerock Lake Drive, complimented the fine police and fire departments of the City of Colstrip.

Unfinished Business:

Attorney Ryder did write an opinion regarding the two Attorney General opinions issued regarding employees serving as elected officials. The letters of advice support the 1998 opinion. Attorney General opinions can be challenged in court but provide guidance to local governments. Attorney Ryder explained the three options he prepared for council's consideration as requested by the City Council. Of the three options, he feels Ordinance 2009-01 should be submitted to the public for referendum to be voted on. Councilperson Becker has researched state laws and it states Attorney General Opinions carry the weight of law only if signed by the Attorney General himself and the opinions are not usually signed by the Attorney General. Councilperson Palmer feels residents of Colstrip should make this decision not 3 or 4 people. Councilperson Palmer moved to put the issue of whether employees should serve as Mayor or on the City Council on the ballot for residents to vote on. Councilperson Jankowski seconded the motion. Discussion: Councilperson Palmer feels it makes sense to have the people decide this issue. Councilperson Stewart commented that putting it out to public vote is the best of the three options but he hasn't heard one person in favor of repealing the ordinance. He feels this is a pretty basic ethics issue. If more than one employee would be on the city council it could effectively shut down the council. He feels state law and legal precedent upholds the ordinance restricting employees from serving as Mayor or on the Council. Councilperson Palmer moved to rescind his motion. Councilperson Jankowski seconded the motion to rescind. No discussion. Councilperson Becker abstained from voting. Councilpersons Palmer, Stewart and Jankowski voted in favor. Motion carried.

Councilperson Palmer moved to put the proposed ballot statement amending the City Charter to allow city employees to serve on the City Council. Councilperson Jankowski seconded the motion. Discussion: Councilperson Jankowski commented that spouses of other city employees have served on the City Council. Councilperson Stewart stands by his previous comments opposing this, referencing the 1998 Attorney General's Opinion from Mazureck. Councilpersons Palmer and Jankowski voted in favor of the motion. Councilperson Stewart voted against. Councilperson Becker abstained since he is a city employee. Motion carried.

Mr. Buchholz stated he has made no changes to his initial request to build an oversized garage with an apartment. Councilperson Palmer moved to approve a Conditional Use Permit for 4416 Remington/4023 Prospector. Councilperson Jankowski seconded the motion. Discussion: Councilperson Palmer went to this property, talked to neighboring property owners and believes Mr. Buchholz has shown a hardship and feels this is the right thing to do. Councilperson Stewart opposes

the motion; he doesn't think it is unreasonable request but feels the code intended to keep this type of use out this district. Mr. Buchholz was asked to make some compromise to his request. Mr. Buchholz stated he took an aerial photo of the acreage tracts and measured the average size of garages in the subdivision and his will be smaller. Attorney Ryder pointed out the ordinance limiting garage size was adopted 3 years ago and a lot of the buildings were pre-existing. Councilpersons Jankowski, Becker and Palmer voted in favor. Councilperson Stewart voted nay. Motion carried.

The final Administrative Order of Consent has been prepared by the Montana Department of Environment Quality and awaits approval by the City. Councilperson Jankowski moved to approve the Administrative Order of Consent regarding Violations of the Water Quality Act at the Water Treatment Plant. Councilperson Becker seconded the motion. No discussion. Motion carried with all in favor.

New Business:

Councilperson Jankowski moved to approve Resolution No. 2011-R13 approving an Amended Plat for Lots 12 & 13 of Block 3, Amended Plat of the Big Timber Subdivision. Councilperson Palmer seconded the motion. No discussion. Motion carried with all in favor.

Councilperson Jankowski moved to approve the contract with Rod's Handyman for City Hall Repair in the amount of \$4,500. Councilperson Becker seconded the motion. Discussion: Councilperson Palmer does not understand the last part of the sentence in Item 1. Public Works Director Bleth stated this was included in error and should be deleted. Councilperson Jankowski moved to amend the contract by striking "to inspect tanks as designated by the Public Works Director" under Item 1. Councilperson Becker seconded the motion. No discussion. Motion to amend carried. There were no other comments or objections. Main motion carried as amended with all in favor.

Administrative Matters:

Councilperson Becker asked to have added to the next meeting's agenda to amend the City Charter to add a fifth council member to the City Council.

Councilperson Palmer would like to have resolutions 09-R16 and 2010-15 on the next meeting's agenda for discussion.

Adjournment:

Councilperson Jankowski moved to adjourn the meeting. Councilperson Becker seconded the motion. Council President Stewart adjourned the meeting at 8:00 pm.

Michelle Richards, City Clerk/Treasurer