

**CITY OF MILLER**  
**CITY COUNCIL MEETING**  
**MAY 6, 2025**

*The City of Miller is an equal opportunity employer.*

The City Council met in regular session at city hall at 7:00 p.m. on Tuesday, May 6, 2025.

**MEMBERS PRESENT:** Mayor Tom McGough, Aldermen: Will Jones, Patrick Price, Gale Hargens, Gale Auch, Landon Gab, and Alderwoman Susan Hargens.

**CALL TO ORDER:** Mayor McGough called the meeting to order.

Pledge of Allegiance was said by all present.

**AGENDA:** Motion by Alderman Price, seconded by Alderman Hargens to approve the agenda. All members voted aye. Motion carried.

**MINUTES:** Motion by Alderwoman Hargens, seconded by Alderman Auch to approve the minutes for the regular meeting held on April 21, 2025. All members voted aye. Motion carried.

**Public Input:** None.

Motion by Alderman Price, seconded by Alderman Jones to adjourn the meeting for re-elected council members to take the oath of office. All members voted aye. Motion carried. The meeting was adjourned at 7:02 p.m.

**Oath of Office:** Alderman Auch gave the oath of office to Tom McGough – Mayor. Mayor McGough gave the oath of office to Will Jones – Alderman Ward I, Patrick Price – Alderman Ward II, Dale Hargens – Alderman Ward III, and Susan Hargens – Alderwoman Ward III.

The Board Conduct and Obligations was signed previously by each incumbent upon taking office and is still in effect for each member's new term.

Mayor McGough reconvened the meeting with the new council at 7:05 p.m.

**Election of Officers:** Motion by Alderman Jones, seconded by Alderman Auch to nominate Patrick Price as President. Alderman Hargens moved to cease nominations and cast a unanimous ballot for Patrick Price as President. All members voted aye. Alderman Price abstained. Motion carried. Motion by Alderman Auch, seconded by Alderwoman Hargens to elect Landon Gab as Vice President. Motion by Alderman Price to cease nominations and cast a unanimous ballot for Landon Gab as Vice President. All members voted aye. Alderman Gab abstained. Motion carried.

**DEPARTMENT HEAD REPORTS**

Ron Hoftiezer, street superintendent, mentioned that the city-wide cleanup will be held sometime in June. Computers and television monitors will not be accepted because the material in the new electronics cannot go to the landfill. Tires are not accepted. Alderman Price asked about the county's free dump weekend. Hoftiezer said it is usually scheduled for the weekend after the city-wide rummage sale. Alderman Auch asked when the street paving will begin. Hoftiezer is going to coordinate with the county to use their zipper and start prepping streets the rest of this week and all next week starting tomorrow. He will grind and reuse as much material as possible.

Mayor McGough iterated to the public not to go around barricades or cones in the construction areas. There was an event today that involved a driver who ignored the barricades resulting in destruction of construction equipment and property. According to a newsletter that the fire department subscribes to, of its fatality listing, 70%-80% of deaths are related to traffic.

Terry Manning, pool superintendent, said the swimming pool is in rough shape. It takes 7 days for the concrete patches to dry and another 7 days for the paint to dry before it can be filled with water. An engineer from Burbach Aquatics will be on-site tomorrow morning to evaluate and review plans for the new pool project. The community pool committee has plans to spearhead funding raising now.

Cindy Deuter, finance officer, reported that sales tax revenue is on track with the budget.

**UNFINISHED BUSINESS**

**Lifeguard for swim team:** Motion by Alderman Price, seconded by Alderman Gab to provide a lifeguard for team practices for the Miller Swim Club. All members voted aye. Motion carried.

## **NEW BUSINESS**

**Bob's Disposal Service:** Representatives from Bob's Disposal Service and River Bottom Sanitation were present to speak to the city council members. Mayor McGough explained how a franchise agreement with the city becomes effective for garbage disposal services. A lengthy discussion was held among those present, and several comments were heard. In consideration of the comments made to Alderman Price by constituents in Ward II over the past week, Alderman Price motioned, seconded by Alderman Auch to grant franchise to Bob's Disposal Service. Mayor McGough said a franchise cannot be granted until it has been written. Alderman Price clarified his motion to begin the process to move forward with a franchise agreement. Extensive discussion continued and legal aspects were introduced. Alderman Hargens suggested that the motion on the table should say "to investigate a franchise." Alderman Price said his motion is with the intent of writing up a franchise agreement. Mayor McGough called for a vote for the motion on the table. All members voted aye. Motion carried.

**Kris Manning – Block Party:** Kris Manning was unable to attend. Alderman Gab spoke on his behalf to request closing the street for a block party on July 26<sup>th</sup>. Live music and food is planned the same as last year's party. Motion by Alderman Jones, seconded by Alderman Hargens to close West 2<sup>nd</sup> Avenue between 5<sup>th</sup> Street and 6<sup>th</sup> Street for a block party on July 26<sup>th</sup>. All members voted aye. Motion carried.

**Andrew Knox – 1<sup>st</sup> Year "NLC" Raise:** Dustin Graham, electric superintendent, explained to the council that Andrew Knox has completed and passed his final exam for Module One of the Northwest Line College program administered through MMUA. Graham presented one of the modules as a visual aid. It contains 10 books. Typically, one module is completed each year. There are 4 modules in the program. All book tests and module final exams require a passing grade of 80% or higher (a standard held by MMUA) to move on to the next book/module. There is an overall final exam that covers all four modules to complete the whole program. Essentially, the city employee gets a pay raise each year after passing each module. Graham likes to hold that year to the individual employee's anniversary hire date which allows the employee to complete their 2,000 hours of documented time required for certification. In the 4 years that Graham has been electric superintendent, his department has lost 3 employees due to low wages. The previous agreement was a \$1.00/hour raise upon completion of each module. To stay competitive and to retain the exceptional employees currently on staff, a \$3.00/hour raise per module completed was implemented. Alderman Price iterated that the council approved the \$3.00/hour raise with Herman and Graham, however, they failed to include the useful verbiage to extend the same to future electric department employees participating in the NLC program. Alderman Jones agreed that "we should have worded that better." Motion by Alderman Price, seconded by Alderman Jones to continue on the current pay scale that passing each module is a \$3.00/hour pay increase and to extend it to Andrew Knox and future employees. Alderman Jones ensured the public this has been previously researched, discussed, and negotiated months ago to arrive at the current pay scale. Graham is on the SDMEA board which gives him the opportunity to see what other cities are providing for compensation. Miller is currently in the middle, not on the high side, yet no longer on the low end. Mayor McGough called for a vote on the motion. All members voted aye. Motion carried.

**Mayoral Appointments:** The following mayoral appointments were presented:

**2025-2026 Committee Assignments Mayoral Appointments** (Committee Chair is first person listed; Alternate is 3<sup>rd</sup> person listed.) **FINANCE OFFICE:** S Hargens, Price, Jones; **PUBLIC SAFETY:** Police, Fire, Civil Defense, Emergency Warning System, Emergency Management, Animal Control: D Hargens, Auch, Gab; **STREETS, PARK, BALLPARK:** Streets, Alleys, Sidewalks, Park, Ballpark, City Hall Mowing, Storm Sewer, Street Equipment: Jones, D Hargens, Gab; **UTILITIES:** Lights and Power, Water, Sewer, Pool, City Hall Snow Removal, Utility Equipment: Price, Jones, Auch; **AIRPORT, CITY PLANNING & ZONING:** Gab, S Hargens, Auch; **CODE BOOK:** Price, S Hargens, Gab; **BUILDINGS MAINTENANCE:** Auch, Price, D Hargens; **PERSONNEL:** S Hargens, Price, Auch; **BEAUTIFICATION / IPMC:** D Hargens, Auch, Jones; **WORKPLACE SAFETY:** Gab, Jones, S Hargens; **ON HAND EC. DEV. DELEGATE:** Price; **HOUSING:** Jones, D Hargens; *The Mayor is a member of each committee as ex-officio. (By virtue of his title.)* **Mayoral Appointments:** **CITY ATTORNEY:** Riter Rogers, LLP; **OFFICIAL NEWSPAPER:** "The Miller Press"; **OFFICIAL DEPOSITORS:** American Bank & Trust – Miller, Quoin Financial Bank – Miller, SD FIT; **PUBLIC HEALTH OFFICER:** Matt Campion; **LEPC LIAISON:** Ronald Hoftiezer; **NECOG LIAISON:** Dale Hargens; **AMERICANS WITH DISABILITIES REPRESENTATIVES:** Susan Hargens, Gale Auch; **TREE CITY**

**USA:** Will Jones; **CONSOLIDATED EQUALIZATION:** Patrick Price; **NATURAL GAS EXPANSION BOARD:** Landon Gab; **BASEBALL ASSOCIATION DELEGATE:** Will Jones.

Mayor McGough explained that should a conflict of interest arise with any committee, he will appoint a temporary fill-in for that matter at that time. The Mayor called for a motion to approve the Mayoral Appointments & Assignments as listed. Alderwoman Hargens made the requested motion, seconded by Alderman Auch. All members voted aye. Motion carried.

**Bank Account Signatories:** Motion by Alderman Jones, seconded by Alderman Gab to remove Alderwoman Susan Hargens as a signatory for the city's bank accounts (American Bank & Trust, Quoin Financial Bank, & SD FIT). All members voted aye. Motion carried. Motion by Alderman Hargens, seconded by Alderman Jones to add Alderman Patrick Price as a signatory for the city's bank accounts. All members voted aye. Alderman Price abstained. Motion carried.

**City Police Jurisdiction/Boundaries:** Mayor McGough referenced SDCL 9-29-1 which grants jurisdiction to municipal police officers. By State law, the police department is allowed to patrol up to a 1-mile jurisdiction beyond city limits.

Alderman Jones has been approached by concerned citizens multiple time about city police patrolling the highways outside city limits and asked for this item to be on tonight's agenda. His original thought was to place the boundary (of where the PD can patrol) at and within city limits which made sense in the aspect that "they are city police, and they should be patrolling the city." However, they should be able to patrol the non-contiguous pieces of city-owned property such as the airport and golf course. Police Chief Huss voiced to Alderman Jones previously that such a motion would not be legal.

Alderman Jones then recited SDCL 9-29-1 and several other pieces of State law. He made the argument that the city council is given powers by State law, many of which we chose not to exercise. For example, the city can, by State law, utilize the police department to enforce city ordinances. The city has chosen not to do that and has contracted services to enforce property maintenance codes. SDCL also says the city has the power to establish and maintain or regulate a jail. Miller chooses not to exercise that power. Alderman Jones went on to argue that on a fiscal standpoint, in the first part of this year 2025, if the city police had been restricted to city limits, insurance claims would have been reduced by 67%, saving thousands of dollars. In conclusion, he believes most of the problem has to do with public perception. He feels the mutual respect among citizens and the department is strained and that passing this kind of motion will help strengthen that relationship.

Motion by Alderman Jones that the police department is instructed to patrol no further than any city-owned property. Motion died for lack of a second.

Discussion continued. Chief Huss referenced the opinion of the South Dakota Attorney General on a Supreme Court ruling regarding the enforcement of SDCL 9-29-1. In 1987, the AG was asked a question about a city council restricting the authority of a city police officer. The AG said that because it's a power granted by legislature the city council did not have the authority to reduce it. It is a duty of the PD to enforce everything within their authority. One cannot pick and choose which duties to carry out. Therefore, the city council cannot restrict the duties of a police officer. Chief Huss strongly believes that protecting the city starts at the edges. Stop the criminals before they get to the heart of town. Patrolling the edges is effective: there's impaired drivers, DUIs, drugs, and, recently, impaired people with loaded firearms were caught before entering city limits.

Enforcement still exists in the core of town as well. Chief Huss has a map on which he plotted points of traffic stops. It demonstrates a good distribution of enforcing the law throughout town within the PD's boundaries. Chief Huss stated that the PD wouldn't be fulfilling their duty if they did not cover all areas of and within the boundaries of the city. The department cannot simply ignore an area of their jurisdiction.

The department has an obligation to use Federal grant dollars effectively for the purpose of reducing speed-related fatalities and getting impaired drivers off the road. If the PD is restricted by city council as to when and where they can patrol, it is difficult to justify the use of those dollars and meet that mission. Chief Huss and Sheriff Croeni work well together. They are part of a Hand County Drug Task Force with the mission of stopping offenders before they get to the core of Miller.

An authority given to law enforcement by statute cannot be abrogated by the city council. Alderman Price recited the AG's opinion on Supreme Court ruling: "It is apparent from the language cited above that the authority of city policemen may not be limited by the city. The Legislature did not grant the city the authority to abrogate powers granted by it to the police. As stated by the Michigan Supreme Court 'Local ordinances must give way to conflicting [state] constitutional and statutory provisions.' City of Livonia v. Department of Social Services, 378 N.W.2d 402, 416 (Mich. 1985)."

Sheriff Shane Croeni was present in support of Chief Huss. He thinks that if we had 2 lawyers in the room, they would argue about what the law does or does not do. Rather, the argument to be made here is that both entities are equally effective because of Chief Huss's efforts. "We have somebody [Chief Huss] who has changed the whole police department and made them as effective as we are 100%." "They've been enforcing [the law for] all crimes." It's "nit-picky" to argue about the 1-mile jurisdiction. "His time out there is maybe 10%." "And he's effective, so why would you want to handcuff him?" "He has changed this department around, and I don't think we should punish him for it."

Pastor Will Page addressed the council and said people like to complain, and sometimes you simply cannot change their minds. He is convinced that if the criminals passing through Miller see our police force patrolling the highways, they will continue driving on through, especially at night. "I see a real benefit to the policemen being out there."

Alderman Hargens thanked Alderman Jones for bringing this up, "this has been a really good conversation." Mayor McGough echoed that statement. "Ted, you did an excellent job tonight," said Alderman Hargens. He thanked Pastor Will, too. They "hit on some very key points, and hopefully people are listening," especially those from whom we get the most complaints about this matter. Alderman Hargens could not support Alderman Jones's motion because of the AG's opinion on case law. Alderman Price stated, "I don't want to become case law that everybody refers to." The other council members agreed.

Some of the members of the audience questioned where the tax dollars go for tickets written on the highway versus in town. Chief Huss and Sheriff Croeni clarified that none of those dollars come to the town no matter where the ticket is issued. Ticket dispersion is the same across the state. State legislators decide where every penny of a fine goes. 40% is allocated to the local school district, then it's split up to support other funds and programs that support law enforcement. Fines collected in violation of city ordinances are the only funds that actually go to the city.

Mayor McGough wants the "constituents to know that we do hear you," "but we have to stay in compliance with regard to State and Federal law."

**1<sup>st</sup> Reading Ordinance No. 762:** Mayor McGough read Ordinance No. 762 – Appropriations Supplement. Motion by Alderman Gab, seconded by Alderman Auch to approve the first reading of Ordinance No. 762. All members voted aye. Motion carried.

**Phase IV Utility Improvements:** Motion by Alderwoman Hargens, seconded by Alderman Gab to pay SPN invoices 35903-35904 for a total of \$16,448.26. and **TLC Olson Construction Pay Application No. 7** for \$86,599.10. All members voted aye. Motion carried.

**Helms & Associates Invoices:** Motion by Alderman Price, seconded by Alderman Jones to approve payment of Helms & Associates invoices 35856-35857 and 35869 for a total of \$17,986.51. All members voted aye. Motion carried.

**Approval of Bills:** Motion by Alderman Hargens, seconded by Alderman Gab to approve the bills for payment. All members voted aye. Motion carried.

**EXECUTIVE SESSION:** Motion by Alderman Auch, seconded by Alderman Hargens to go into executive session for personnel matters pursuant to SDCL 1-25-2(1) at 9:11 p.m. All members voted aye. Motion carried. Mayor McGough returned the meeting to regular session at 9:15 p.m.

**Hire Lifeguard:** Motion by Alderman Gab, seconded by Alderman Price to hire Taytum Gortmaker as a lifeguard at \$13.50/hour for the 2025 season. All members voted aye. Motion carried.

Motion by Alderwoman Hargens, seconded by Alderman Auch to adjourn the meeting. There being no further business, the meeting was adjourned at 9:16 p.m. All members voted aye. Motion carried.

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Tom McGough, Mayor

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Cindy Deuter, Finance Officer

LEGAL NOTICE OF RECEIPT

Copy of the official proceedings

was received on: \_\_\_\_\_

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**Bills May 2025 (1)**

American Solutions	Supplies	12.75
BDS	Garbage	350.00
Border States	Supplies	886.94
Brookings Area	Supplies	60.00
City Utilities	Utilities	10,077.42
CNH	Supplies	7.45
Comfort Inn & Suites	Lodging	143.00
Dakota Energy	On-Call	1,820.00
Dakota Sprinkler & Land	Sod Cutter	1,600.00
DGR Engineering	Prof Fees	65.50
Hand Co Rod	Filing Fee	30.00
Hand Co Pub	Publications	1,387.97
Helms & Associates	Prof Fees	17,986.51
Milbank Winwater	Supplies	700.00
Napa	Parts	279.08
Miller Fire Depart	Firepup Program	225.00
Dave Nelson	Solar Sellback	92.74
Northwest Pipe	Supplies	133.27
Ohed	80% BBB	2,845.40
Postmaster	Postage	400.00
SDML	Prof Fees	80.00
Servall	Service	114.95
SPN	Prof Fees	16,448.26
Storey Kenworthy	Supplies	938.63
Us Bank	Loans	22,547.06
Us Bank	Loans	22,526.05
Us Bank	Loans	12,775.27
Us Bank	Loans	4,640.84
World Insurance	Prop & Liab	396.00
	Accounts Payable Total	<u>\$119,570.09</u>

**Payroll Salary plus**

<b>Benefits by Department:</b>		<b>4/30/2025, 5/08/2025</b>		
	Department	w/o OT	OT	Total
41101	COUNCIL	3,638.60	0.00	3,638.60
41402	FINANCE OFFICE	3,276.04	0.00	3,276.04
41902	BUILDING	349.03	0.00	349.03
42101	POLICE	13,217.71	123.77	13,341.48
43101	STREET	8,851.37	146.98	8,998.35
43201	SEWER	6,046.22	327.58	6,373.80
43305	WATER	6,321.32	327.58	6,648.90
43403	ELECTRIC	14,581.14	12.58	14,593.72
45101	BALLPARK	946.05	0.00	946.05
45202	PARK	966.87	0.00	966.87
		<u>\$58,194.35</u>	<u>\$938.49</u>	<u>\$59,132.84</u>