

**Troy City Council  
Work Meeting  
Council Chambers  
June 15, 2010**

The meeting came to order at 6:30 pm. Present: Mayor Don Banning, Council: Phil Fisher, Fran McCully, and Loretta Jones, Gary Rose, City Attorney Mark Fennessy, and City Clerk Sandra Johnson.

**GUESTS:** Robert McLeod – Troy Police Department, Andrew Moling, Canda Harbaugh, Gary Manahan, Lana Manahan, Brenda Croucher

**MARK FENNESSY – Council Questions:** Mark Fennessy stated that council had questions on general business structure and standing committees. Fennessy stated he doesn't think there is a statutory requirement on standing committees. A council can have any kind of committee it wants. They can either be appointed by the Mayor, or as an Ad Hoc committee (a committee for a specific purpose). Or, the council itself can just form one. Mark Fennessy reminded council that if there is a quorum (three council members or more); the council could be in violation of an open meeting. If three or more council members are present, the meeting must be advertised. The committee would need to take minutes and report back to the full council. Committees do not make decisions; they make recommendations to the council as a whole. The Mayor is like a CEO, he runs the day to day business. The council is more like the legislature; they pass the laws (Ordinances), and approve the budget and such things as contracts. It's not the council's purpose to negotiate the contract; that would be the department heads and the Mayor. If you wanted a committee to review the contract you can. Once the contract is negotiated, the council can review and then approve. Fennessy advised it is not really my job as the attorney to provide education to the council. I'm supposed to review and write up ordinances, and attend the council meetings. Fennessy advised council to contact the Local Government Center out of Bozeman to answer questions and guidance. MMIA provides expertise on helping with general liability and policies. Discussion on policies followed. MLCT has examples of many policies and they are public information. Phil Fisher asked Mark Fennessy if he has to review the policies. Fennessy answered, I suggest that I do, just to make sure there is nothing illegal in them. A lot of the time what you think is going to work, doesn't. Troy is a good example of what can be done outside the box. Troy bought a power company. There are things that can be done, but your biggest challenge is the economy right now. Gary Rose asked if the Mayor can say there is a cost of living wage increase. Fennessy answered; yes he can propose it, but if the money isn't in the budget, then it can't be. Gary Rose asked; then anything he wants to do with money has to be proposed to the council. Mark Fennessy answered; yes. Phil Fisher asked Fennessy if council can make cuts in the budget. Fennessy answered; yes, you can change things in the budget. Fran McCully asked; where would council form a committee. Fennessy answered; anywhere. McCully asked that so as long as we comply with the open meeting law, and keep minutes, we're legitimate. Mark Fennessy added; and you don't make any decisions. Phil Fisher asked if it was 48 hours or 24 hours that a meeting has to be posted. Fennessy advised as long as it a reasonable time. Canda Harbaugh stated that other than the courts, there is no law that states a specific time frame. Mayor Banning stated that it is through a resolution that we hold the council meetings the third Wednesday of the month, but if we have a special meeting, we have been posting two days prior. Mark Fennessy asked how difficult it is to put it on the City's web page. We have to contact the designer, and he puts it on. Fennessy said to check with the web page designer to see if he can do a plug-in that lets changes be done from the office. Fennessy advised that with an agenda, you have to be careful. If items cancel it is no big deal, but if items are added, there has to be reasonable time for public notice. Gary Rose asked Fennessy who has the final say on what gets added to the agenda for a work meeting. Fennessy answered the mayor sets the agenda; but, at a work meeting anything can be brought up. Your general meeting should be limited to the agenda items, and the council should be aware of the items that are on it and have the research done prior. Fran McCully stated; we brought to the mayor a list,

signed by two council members, of the things we wanted on the agenda. Only one thing was on the agenda. Discussion on what is on a list followed. Mayor Banning gave an example (hydrant at Jack's café) of something that was on the list, which can be handled administratively without having to bring it up at a meeting. Phil Fisher stated; people of the city are coming to us with things, so we're trying to represent the city. Mayor Don Banning gave City Attorney Mark Fennessy the list presented to him. Mayor Banning stated I have to exercise the authority granted to the Mayor by the Montana Code Annotated. That he is the administrative officer of the city and operates the city. Fennessy advised that he will take the list and look at it and get back together with the Mayor. Phil Fisher asked Fennessy if he had a chance to look into the water rates for the portable water users that fill up at the shop. Fennessy said there are two types of water. One that comes from the O'Brian Creek feed, that is non potable that we charge one rate for the tankers. The other is the potable water. We don't have a water rate structure. We can add it or we can say no. Right now, anyone using it, is being charged \$34.50 for it. Fennessy stated that is something that can be put in the rate structure.

**FISH POND WATER FEATURE – Loretta Jones:** Loretta Jones brought up that in the previous minutes it was council's consensus to allow the county to put in a water feature at the fishing pond. It says by consensus, which means; yes, the concept was approved, but then you might need to check with Fish and Game. Mayor Banning asked for committee volunteers. Fran McCully and Gary Rose volunteered to be on the committee. More discussion on the process followed.

**PLANNING AND ZONING - County Interlocal Agreement:** Mayor Banning referred council to the information given to them in their packets. Gary Rose showed concern about a small local businesses not being able to set up in residential areas. The growth policy was mandated by the State of Montana to use as a guideline. It is only a guideline. The planning board will actually do the planning. Discussion followed. Mayor Banning asked council to look at Libby's Interlocal Agreement with the County as an example, and note what they would like to see in an agreement, then bring to a committee.

**BNSF ROW AGREEMENT- Proposed walking path:** Mayor Banning presented council with the copy of the *License for Pedestrian Walkway* required by BNSF for their review. Ryan Mitchell is the engineer for the County on this project as well, and he has worked with BNSF in the past. BNSF may require their own employees for flagging. Clint Taylor stated that he has worked well with the director out of Bonners Ferry before. Taylor stated that he doesn't feel a flagger would be necessary because the path would be about 200 feet away from the center line, but BNSF is who decides. Taylor also gave a summary of the proposed design. Taylor also advised that RPA and Lincoln County have signed the contract. The surveying has been done and they are putting together two options; one with curbs and gutter, and one without. Fran McCully asked if there are other options to use the funds available other than the curbs and gutter. Clint Taylor advised her to contact Commissioner Konzen.

**PUBLIC MEETING FOR WATER & SEWER HOOKUPS:** Mayor Banning advised council that this is to establish water and sewer hookup rates for new construction. The proposed rate was tied to materials. Presently it is \$190 for water and \$900 for sewer. Mayor Banning stated that it needs to be more to cover costs. Clint Taylor advised especially on the water rate because now it involves a meter, and meter pit. Loretta Jones asked how much of an increase is needed. There is a utility survey that will show information from other towns concerning this. Discussion on survey followed. Mayor Don Banning also advised council to look at a sewer rate increase as the present rate was set in 1995. Taylor advised council that a flat hookup rate may not work as every hookup is different, some involving asphalt replacement for example. On the electric utility side the customer only pays what it costs the power company. Discussion followed. Don Banning referred back to the usage increase advising 2% would be 68 cents per month and 3% would be \$1.03 per month. Phil Fisher asked who made the proposal. Mayor Banning stated it isn't a proposal it's open for discussion. Fran McCully stated that she feels the service rates for the new hookups makes a lot of sense, but is absolutely opposed to a sewer rate increase until we look at every possible way to contain the budget before an increase. Mayor Banning advised

that there are future costs for maintenance to be considered. It was stated that the lagoon liners have a life of about 20 years There are no grants available for replacing lining. Loretta Jones asked how much would it cost. The cost would probably be over \$30,000. Discussion followed. Mayor Banning let council know that he will be asking for two decisions on these issues tomorrow at the scheduled council meeting.

**EPA SOIL DEPOSITORY:** Mayor Don Banning advised council that he received an email late this afternoon; a memorandum of agreement from EPA. He advised that it would be on the agenda for the June 16, 2010 Council Meeting. Guest Lana Manahan notified council that she has collected over 300 signatures that do not want this to happen. Loretta Jones asked how much information does the community have to decide not to have it. Fran McCully asked Lana Manahan what her fear is of having it. Lana Manahan stated her concern is that it will devalue her property that borders the city property where the proposed site is to be placed. Phil Fisher stated their property is already next to a class 3 landfill. Lana Manahan expressed concerns on the hysteria that asbestos creates and asked council to consider the future that it affects. Discussion followed. Phil Fisher asked Lana Manahan if she was at the public meeting that took place at the school gymnasium. Manahan replied; no. Fran McCully stated this is a hard decision to make. It has to be based on real fact. Discussion followed on how much asbestos would actually be buried. Bob McLeod said if he remembered correctly Troy would only be responsible for the cap maintenance and the State would be responsible for the contents. Lana Manahan answered; no, once it is capped the State will pull out and Troy would take on the responsibility. Fran McCully and Loretta Jones disagreed, and advised the State said they would be liable for the contents. Discussion followed.

**PUBLIC COMENTS:** Guest asked if the Harvey house was on the agenda for tonight. Mayor Banning stated that there is no information on it.

A **Motion** to adjourn made by Loretta Jones, no second. Motion failed. No discussion or questions by anyone.

Fran McCully asked if she could ask questions regarding the email about the soil depository. Mayor Banning stated he just received the email and hasn't had the time to review it.

A **Motion** was made to adjourn by Loretta Jones and seconded by Gary Rose. No discussion. **Motion carried.**

Meeting adjourned at 8:39 p.m.

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Donald C. Banning, Mayor

ATTEST:

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Sandra Johnson, Clerk