

**Troy City Council
Work Meeting
Council Chambers
September 9, 2010**

The meeting came to order at 5:30 pm. Present: Mayor Don Banning, Council: Phil Fisher, Loretta Jones, and Gary Rose, and City Clerk Sandra Johnson. Fran McCully, excused absent.

Mayor Banning lead the Pledge of Alliance

GUESTS: Robert McLeod – Troy Police Department, John Brown, Clint Taylor – Troy Power, Canda Harbaugh – Western News, Heather McDougall, Dave Norman – Public Works, and Payton Norman.

BPA VOTE: Clint Taylor –

Bonneville Power Administration sent some changes to the tiered rates. Taylor read a letter from CT Beede, Troy's account representative stating the proposed revisions are technical cleanups to the tier rate methodology, and not policy changes to the contracts. Taylor advised that he reviewed it and there are only two of five changes that apply to us, and only with major growth. It states that if we do not vote, it will be considered a yes vote. We are one of their smallest customers, but I recommended voting to show BPA that we want to participate. Taylor recommended voting yes. Discussion followed. The vote will be Wednesday at the regularly scheduled council meeting.

Clint Taylor reminded council that they had approved the draft of the Network Transmission Services. He stated that he had reviewed the final draft and there were no major changes other than the name Bonneville. All they need is for us to request BPA to be our scheduler for the power. It will be on the agenda at the next council meeting. This needs to be submitted by September 24, 2010 or we will be in violation of the agreement. Taylor advised that in late November he should have the rates in.

Clint Taylor advised that the Windjammer Communication's pole agreement is up. Taylor recommended increasing it from \$8.00 to \$10.00 to cover the cost of increases in materials and labor. It will be on the agenda for next week as well. Heather McDougall asked Taylor what the revenue impact would be. Taylor replied; two dollars a pole time 309 poles would be a \$618 increase. He advised the price of poles has increased from \$100 three years ago to \$160 today. He spent \$18,000 on poles two years ago. Discussion followed.

Clint Taylor brought up the letter to the editor from Heather McDougall that was published regarding the alleys and the poles in the alleys. He asked if it was council's consensus to agree with her. Gary Rose stated that he hadn't read it. Taylor asked council if they had read his five year plan. He pointed out the poles are scheduled to be worked on from Missoula Avenue to Riverside Avenue. Phil Fisher stated that he had been down some of the alleys and the poles are pretty shabby. He stated that he would hate it to become a liability. Taylor stated; we are aware of it and try to take care of the trouble spots but the bottom line is we have a three man crew and we have quite a few duties. It is scheduled. We try to do everything in-house and not involve costly contractors. Taylor explained the five year plan. Taylor brought up the Christmas tree and banners. They are not the responsibility of the power department, but we have pitched in to help with them. All these things take time. Taylor also explained the time involved for the fish study for Northern Lights. Heather McDougall asked about a specific pole and if it indeed had been there for 10 years next to the old one. Taylor explained that it's not going to damage the pole whether it is set in the ground or in storage; the life expectancy is the same. He was unsure of when the pole was set. The old pole it is next to may not be as rotten as others that were replaced.

STREET CHIP SEAL / PAVING: Dave Norman – stated that it was brought to his attention that John Konzen was waiting to hear back from him regarding an amount for oiling the roads. He stated that he has been in contact with Ron Downey and Ryan Mitchell and it is their thoughts that with all the new DEQ regulations on the oil, it would be better to use a hot mix of asphalt for

the roads instead of chip sealing them. Norman advised that he was expecting the same contractor that did the asphalt on Fourth Street to be back in town this fall. Norman stated that the same contractor would most likely be back in town to do the walking path and it would be less expensive at that time versus paying for the travel for just one job. Norman advised that it would be a better quality street that would last a lot longer for the same amount of money by waiting for the asphalt in the Spring. Discussion followed.

Gary Rose brought up the alleys. He asked what the status was and if they were complete. Dave Norman replied that they should be all done, but if you see some areas, let me know. Gary Rose asked how long did it take?. Norman answered just the one day. Rose stated; and how long did we fight over getting that done? Norman replied; how many days did it take to get the report back from the DEQ to say we were all clean from the asbestos? Rose stated; I don't think that was a real thing. Dave Norman stated; it was a real thing. Gary Rose stated; it was excuses after excuses. Discussion followed. Phil Fisher stated that there are still places that need weeding. We have weed ordinances, how can we send a letter for residents to clean up their weeds when the city has the same issues. Mayor Banning asked Dave Norman who's responsibility is it to do the weed maintenance by the alleys. Norman replied; the alleys are only 15 feet wide. Most of the weeds, etc. are right up to the alleys and beyond that is private property. Norman said that if the city was to go through and knock down the weeds, they would get far more complaints, especially with the use of herbicides. It is the same with sidewalks, if a resident has a sidewalk in front of their house; the resident takes care of it. Heather McDougall asked Dave Norman; can you buy oil at a third of a truck load or do you have to buy the entire truck load. Norman; I don't know, usually I go to the county. We get the max amount for the money. McDougall asked if it will still be available in the spring. Phil Fisher stated that he was told you have to order an entire tanker and it is a week or two before it comes in. Discussion followed.

ANIMAL CONTROL: Robert McLeod- Followed up with the contacting the appropriate people to set up a contract. He presented council three letters that he plans to submit. He has been in contact with them by phone. One letter went to Kootenai Pets for Life, one to the County, and one to Debbie's Pet Grooming. Loretta Jones stated that she doesn't like the wording of "temporary". McLeod stated he would change the wording. Phil Fisher asked for more explanation on what Lincoln County will accept. McLeod explained that they will only take vicious animals, quarantined animals or injured animals. The County will only hold the animal for 72 hours before euthanizing. Most animals will be transported to Kootenai Pets for Life if the owner cannot be located. Rose asked how the City will collect for the impound fee. McLeod advised he has a meeting on the September 13th, and hopefully will be able to present council with an agreement at the following council meeting. Loretta Jones asked if the attorney has looked at it. McLeod stated that he will have him look at it after the meeting September 13th. Mayor Banning confirmed with McLeod that he would be ready and stated it will be put on the agenda. Phil Fisher had questions regarding the budget for animal control. McLeod advised that the fees the owners pay would go back into that account. Fisher showed concern that there would need to be more in the budget for it. Discussion followed regarding the hiring of an animal control officer. Chief McLeod explained why the Police Department cannot keep animals. He advised that there is an average of 30 complaints per month. He also advised that there is a complete reporting system in the SWIFT computer for animal control. Heather McDougall stated her feelings that creating the position is too costly. Gary Rose stated that he doesn't know how it can be done any less expensive. McLeod stated that he had a resident of Troy bring him paperwork and told him by state statute we have to provide animal control. Marilyn McDougall asked why an officer cannot pick up the animal and drop it in the holding cell. McLeod replied; we could, but it still takes away from our regular duties, we also don't have the training or carry the tools. Canda Harbaugh added; it's not just picking up the dog, its researching the owner, writing the report etc. More discussion followed.

MMIA/LOCAL GOVERNMENT CENTER MEETING: September 29-30, 2010- Mayor Banning stated that he tentatively scheduled a meeting with MMIA and the Local Government Center on September 29th and 30th, for the council, and whomever else would like to attend. He asked the council if they would be willing to meet. Phil Fisher asked if it was going to cost the city to have

them come. Mayor Banning replied; no. Gary Rose asked how long the meeting is planned for. Mayor Banning answered they will be here on Wednesday evening on September 29th, but also available the next day if it carries over. Phil Fisher stated; when I talked to Dan Clark I emphasized that the meeting only be with the council to ask questions and that they discuss with just the council. Phil Fisher asked Loretta Jones her thoughts. She stated that it could very well do some good, but questioned meeting without the mayor. Phil Fisher reiterated; just the council and the two from MMIA and Local Government Center. Mayor Banning advised that he was told by them that it would have to be open to the public. Fisher asked if it is being classified as a council meeting. Mayor Banning answered; no it is just training, but there will be a quorum. Fisher asked if minutes were taken at the first training. it is a meeting with all council members and should be recorded. Banning stated that he would like to participate; there are things out there he'd like to learn. Loretta Jones stated that she would participate as long as there would be something solved. Gary Rose agreed. Phil Fisher also agreed, but added; it seems like it is a waste of time to do things and get nothing resolved. If we do more meetings and there is no change from either side, then there is no result. Loretta Jones stated; we need both sides working together. Phil Fisher stated; it was brought up about other cities. This is about Troy Montana, not about any of the other cities. Gary Rose; I think there are five cities in the state that has this type of municipality, and that is what we should be learning, is what happens in this type of municipality. Banning explained that it is about the interpretation of the law. Loretta Jones stated there shouldn't be different interpretations of a law. Mayor Banning stated they are in the position to clarify any questions that we may have. Gary Rose stated. but we have this process, we have a problem with the process, and the processes are not happening the way they should be. Mayor Banning reiterated; that's interpretation. Gary Rose stated; it states in the Charter how things are, but it doesn't seem like it happens the way our Charter says it does. Banning stated; that is why they are coming in to talk to us. My interpretation of what I've been told is different than your interpretation. If we have someone here that can clarify that, to both of us, I think it would be in our best interest. Gary Rose agreed. Mayor Banning asked council again; so is it general consensus to have them come up? Loretta Jones said; yes, I'd like to see them. Gary Rose stated; yes, but I can see Phil's concern to meet separately. I can see a point to that, and see how that would help us out, but one way or the other, I think we should probably meet with them. Phil Fisher stated to Mayor Banning; I think the last meeting, there were a lot of comments that Dan Clark would walk around. Our City Charter is a weak mayor strong council or whatever you call it, I'm not sure, but it's not classed as a strong mayor weak council. And in our last meeting Dan Clark said he didn't want to call it that. It was because you were sitting here, referring to it as it would make you weak. The fact is, we are ran underneath the State laws and underneath that Charter, and that is what the Charter is. Gary Rose added; we have our own Charter, we are self governing, we have a Charter and we need to follow it. Phil Fisher added; I don't feel there is a reason to change anything that what was stated. We state the laws how they are, right out of the book. Fisher read aloud; the question: how can I get items on an agenda for a meeting? The answer comes from the forum and refers to Roberts Rule's of Order. "It is wrong to assume as many do, that the president sets the agenda. It is common for the president to prepare the agenda but that becomes binding only if it is adopted by the full assembly" Phil Fisher gave reference to more detailed rules. Mayor Banning stated; the state law supersedes Roberts Rule's of Order. The State law says the mayor and the clerk set the agenda for the meetings. Gary Rose stated; it states that you set the agenda; it doesn't state you dictate the agenda. Heather McDougall asked; what is the MCA, because I've never found it. [Audience and council raise voices] Heather McDougall shouted; Whoa! Let's get that MCA, I want to hear it. Mayor Banning quoted rules and responsibilities from Montana Code. Heather McDougall interrupted and asked what the number was. Mayor Banning continued; this is something that Dan Clark and Alan Hulse can help us with. Banning read aloud;

'in most municipal governments, the mayor serves as a presiding officer of the council, but the mayor is not a member of the council and may not be counted among the number necessary to make a quorum. As the presiding officer of the council, the mayor usually prepares the meeting agenda with the assistance of the clerk. The mayor may take part in the discussions of the council, but must take care that established council procedures are followed and that each member of the council is treated fairly and with the respect due an elected representative of the community. The mayor may not vote as other council members, but may vote only to break a tie

vote of the council. As presiding officer, the mayor must ensure that members of the public that appear before the council, are accord the reasonable opportunity to present their views and are treated with respect." Loretta Jones asked, referring to the agenda; it says prepares, is that the same as sets? Heather McDougall answered from the audience; no. Mayor Banning said; yes, it is prepared and that is what is on the agenda. Phil asked to carry on past that. He stated his point; the first meeting, we were told a way of how we do things. We did that and it didn't matter. If they come and Dan tells us, this is how it is, and we do it that way, and it doesn't change things, it is a waste of time. Gary Rose brought back up the agenda and asked; if you set the agenda, the way you perceive it, that means you put on what you want, if that's the case, you are impeding our job of legislation because we can't get on what we feel is necessary to legislate. Mayor Banning responded; as far as our Charter it does not say anything about the agenda, so it reverts to the MCA Montana Code. Heather McDougall stated; no; it says, all powers are vested in the City council except for MCA Ordinances. Banning continues; it says nothing to do with agenda in the Charter, it reverts back to Montana State law. Mayor Banning stated; there are disagreements, so they can probably straighten this out. Discussion followed. John Brown stated that he thinks it should be done in two separate meetings because he sees both sides doing wrong. More discussion followed. Phil Fisher stated that he spoke with Dan Clark and told him that if he comes, he want to meet with him and with council only. The clerk stated; I just think this needs to be given a chance to work. Gary Rose asked the clerk; why do you disagree? She replied; I wasn't disagreeing with you. Mayor Banning stated; if you don't want me at the meeting I won't be at the meeting. Gary Rose stated; we don't want to keep you from the meeting, just separated a little bit. Discussion followed. Phil Fisher stated; I'll go as long as it's my way. The consensus was to have them come up.

2011 URBAN FORESTRY GRANT: Phil Fisher asked what the grant is for. It is a 50/50 grant basically is for trees, maintenance of trees and processing policies for this. Loretta Jones asked if the expenditures would have to be out of this year's budget. Yes. Gary Rose asked when a decision would have to be made. Phil Fisher stated; it would have to be voted on Wednesday. Discussion followed.

RECYCLING TRAILER: Mayor Banning let it be known that Lincoln County put in for a grant to purchase recycling bins to put in Libby and Troy. It is a trailer that will be placed by the green boxes. Phil Fisher asked if we were responsible for clean-up around it. Don Banning wasn't sure but will follow up.

RESOLUTION FOR AGENDA ITEMS: Loretta Jones stated; let's wait until after the meeting on September 29th so we know what to do. Phil Fisher stated; we brought a resolution; I feel it has been prepared right; the attorney has looked at it. Gary Rose asked what his opinion was. Mayor Banning answered; the attorney's opinion is that it is against the law. Heather McDougall asked; what is it violating? She also asked if the attorney had given the city a legal letter on it. The mayor answered, no. McDougall stated; it is a little hard to argue when you don't give the legal authority for it. She requested the MCA number to look it up. Phil Fisher stated; we do resolution and ordinances. Mark can say anything is illegal, but he needs to show us a law that states that it is illegal. Gary Rose stated. We need clarification on this. Heather McDougall stated. We need to know what it is that is wrong. Gary Rose stated; in "Governing from Grass Roots" it says that Troy has a weak mayor, strong council type of government. Phil Fisher stated; when first elected, we were told to follow Robert's Rules of Order. Mayor Banning stated we aren't changing anything at this point. Copies were sent by email. He will get it in writing from the attorney. Phil Fisher asked if it would be on the agenda. Mayor Banning answered; no; when I see the attorney to get it in writing. Phil Fisher stated; so we are here for nothing. If that is the answer, you can end the meeting now, but I do have public comment to make; we have a budget to approve next week and we will see what happens there.

PUBLIC COMMENTS:

Gary Rose stated that he would like to see Robert McLeod formally placed in the position of Chief of Police by a vote of the council. Reason being is that the council was denied the lawful process. Also, I would like to quell rumors that he is not our legal chief. Mayor Banning stated

that McLeod has been hired as chief of police and been sworn in. Rose stated; I'm telling you Don, that you follow procedure and you need to take care of it. Loretta Jones stated; we need to discuss what we need to discuss. Phil Fisher stated; It states in the Charter that with the consent of the council all department heads and it wasn't done this way. Discussion followed.

Heather McDougall asked what the timeline is for the budget and what would happen if it doesn't get passed. Mayor Banning stated; I don't know. The clerk stated it's never happened before, but we will continue on as we have.

Gary Rose asked about Ordinance No. 510. It was told to the council at the time it was illegal. Discussion followed. Loud discussion from council and guests continued. Phil Fisher asked; how can we put trust into our attorney when he passed an illegal ordinance at that time. Mayor Banning stated; he doesn't pass ordinances and advised against it. Discussion followed. Phil Fisher stated; resolutions that we bring to you, ordinances that we bring to you; is anything going to get on the agenda. Mayor Banning stated; of course. Discussion followed.

Heather McDougall asked what are the ramifications of not having a budget pass. I don't see how you can do payroll. I don't see how you can do warrants. I'd like to have some answers. Banning stated; so would we. Loud discussion followed.

Mayor Banning adjourned the meeting at 7:32 p.m.

Donald C. Banning, Mayor

ATTEST:

Sandra Johnson, Clerk