

Troy City Special Council Meeting
Council Chambers
January 17, 2010
6:30 pm

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

GUESTS: Committee members: Wayne Maffit, Deanise Killingsworth, and Lynn Ward. Cam Foote not present.

ATTORNEY POSITION: Discussion with Committee- Mayor Banning began the meeting by advising that the only thing discussed tonight is the one agenda item and anything else will be ruled out of order.

Fran McCully asked Wayne Maffit if he felt there was a conflict for him to sit on this committee. Maffit asked for what reason. McCully answered; for personal feelings about the residence across the street from your home and the issues with the school board. Maffit answered; no.

Fran McCully stated to Banning; when Gary Rose came in asked you who was on the committee, you wouldn't tell him. Banning replied; I told him that Wayne Maffit was the chair of the committee and he could get the other names from him. Fran McCully replied; I feel Wayne has a conflict in this. Wayne Maffit stated; I feel you have a conflict as much as I would have a conflict because of your relationship with one of the candidates, so that has nothing to do with who I recommended to be City Attorney. Deanise Killingsworth stated; honestly, I think Lynn and I can attest that Wayne went out of his way not to influence us. He went above and beyond taking his bias out of this, if there was one.

Fran McCully stated; we asked at the beginning and presented a letter stating that not only did we want to be involved in this decision; we wanted to be involved in the process and sit in. McCully continued; I don't know if you guys know it or not; but, as a council, we get nothing but filtered information. We don't get things direct; we're not able to hear it with our own ears. Maffit replied; nobody said anything about you wanting to sit in. Mayor Banning stated; the only job the Council has in this procedure is to approve the appointment or not. Banning stated; the law doesn't say, being involved in the process and sit in on the interviews. Phil Fisher stated; but it doesn't say that we can't sit in. Fran McCully stated; I don't see any point in moving forward. Gary Rose said to Banning; if you were going to be fair, you would have allowed some council member's to sit in.

Wayne Maffit interrupted and stated; excuse me, but we didn't come down here to listen to this. Fran McCully agreed and again stated; I just don't see any purpose on moving forward. Maffit stated; if you want to ask questions, I'm open to it. If you want to ask why we chose the way we did, then ask. Phil Fisher stated; that's what I came here for, and he (Banning) just said we couldn't. Phil Fisher and Gary Rose stated; yes he did. Deanise Killingsworth stated; he did step in when Fran McCully started questioning personal issues. Banning stated; personal issues are not part of the process. Gary Rose asked Maffit; do you think if the one candidate was on trial for something and you were selected for the jury, they wouldn't give you two seconds and would tell you to get out, knowing that you are conflicted with her. Maffit asked why. Rose answered; because of the property issue and your wife being on the school board. Maffit replied; I was a judge in Troy for three years. I can divorce my personal feelings, as a matter of fact, I had information that I could have given to this committee which I did not. I wanted this thing to be as impartial as possible and it was.

Phil Fisher asked if any of the committee members asked the citizens of Troy about the candidates and ask if they wanted to share with the City of Libby. Deanise Killingsworth answered; no we did not Phil; because, we were not charged with that, we were charged with being an interview committee, and I've done a lot of interviews in my career. One of the things I don't do is go to other employees and ask them if they want this candidate or the other. Fisher stated; but I'm not talking about other employees. Killingsworth stated, it's the same thing; you're going to get a different answer from everybody and you can't please everyone. All you can do is the process of interviewing candidates with questions that are relevant that will show that they can do the job. Fisher asked if she had them now. Killingsworth replied; yes and I would not give them to you Fran. McCully interrupted and stated; no, I just asked if you had them. Killingsworth continued; I have a point to make here; you called me outside of this meeting to get this information from me, and I will not do it outside of any of these meetings. I will hand it to the council as a whole, but I will not hand it to just one person. This is an interview process that involves some legal situations this is going outside the boundaries of what is really kosher when you're hiring someone; to let the public know before they do. McCully replied; I know Deanise that you still have that on your machine, all I wanted was, that if you had it, would you bring it.

Council was presented the scoring sheets from committee members.

Phil Fisher asked on references; how many references did you ask for each candidate. Maffit replied; we have both resumes and one had no references on the resume whatsoever, and the other one did. I called everyone that was listed on the resumes.

Fran McCully stated to Killingsworth in other towns there would have been instances where Council would have been present or part of the hiring committee, so it wouldn't have been something that council shouldn't know, would it? Wayne Maffit answered; there is one question that is handwritten at the bottom of the list of questions asked to both candidates. Maffit quoted the question; "Have you seen this list of questions before this interview?" That is why nobody else was involved with this selection on this committee; because, as much as I may be involved in a different way, you, too, are involved in a different way, and you know that's true. That is why we wanted to keep this completely on the up and up. We asked the same questions of both candidates. McCully agreed with Maffit and added; had I had been on the committee I wouldn't have shared that information, but it was done the right way and I agree with that.

Gary Rose asked how many people on the committee lived in the city. Killingsworth answered; I live out of town, but I work for the City Court. Rose stated; but you can't vote. We have one person on the committee that can vote, so this is not a great representation. Maffit responded; that was one of the first questions when this committee was formed, and I was informed that it makes no difference. Banning stated; I informed them of that because it doesn't matter where you live, it is just asking questions and consider the answer. Rose asked; but does that represent the city well? Maffit replied, I think it does because everyone basically lives here. Whether they live outside the limits or not, they all work and shop here. Killingsworth added; I've lived here for the last 25 years. Gary Rose replied; you're either a voter and tax payer in the city or you're not. If you're not, then you're not a real representative of the city. Lynn Ward corrected Rose stating; I own property in the city, so I do pay taxes. I don't vote in the city, but I do work here every day. Ward asked Rose; if I got arrested in the city, would I not be tried here? There is a possibility that we would have interaction with the City Attorney also, even if we do just live over the river.

Fran McCully asked Maffit if he chaired the committee. He said yes. McCully continued; so you would have determined the other members? Deanise Killingsworth answered; no, it was on a total volunteer basis and I believe that I gave the Mayor several names of people that even live within the city limits and he contacted several people. McCully asked; so he must have contacted you first. Killingsworth answered; yes, of the people called, we were the four that stepped up to the plate and said we would do it. McCully asked Lynn Ward; why did you feel like you had expertise to lend and why did you agree to be on the committee. Ward answered; I was asked as a business person in Troy; maybe because nobody else wanted to, but I love Troy, so I said yes, I'd be proud to do it. I don't know either candidate personally, and thought I could be very unbiased.

Gary Rose asked if they discussed the candidate's education. Ward answered no; we had their resumes.

Wayne Maffit submitted in writing, his findings from the references and past employers that were questioned about the candidates. Phil Fisher asked Deanise Killingsworth about her previous employment. She gave a brief history on her duties there and her experience with the legal processes.

Lynn Ward asked if she could address Council. She stated; I know you aren't asking me very many questions, but I really think that if you look at the resumes; and after the interviews, the personalities of the candidates were so very different. Fran McCully stated; the biggest goal for the council is; we don't want 26 more years of what we had for the past 26 years. That was primary #1. Discussion followed. Employers and those people both candidates worked with were also called for references.

Wayne Maffit continued; I just want to report that when I talked to these people on the phone, they gave information that we considered. Gary Rose stated; one of the big concerns that we have is that how much of the person recommended are we going to get. He is going to take on more with the escalation of crime. It is probably a little bit more of a job than he is letting on. Troy needs to end up with something. Wayne Maffit answered; we asked him that question though. Lynn Ward added; he is talking about putting an office here. Gary Rose replied; impossible, well, he may be able to have an office here, but whether or not he is actually going to have time spent down here? Killingsworth stated; he was honest and realistic about time spent here.

Phil Fisher asked questions regarding work with the City of Libby and the City of Troy.

Fran McCully requested the committee to explain the scoring of the performance skills evaluation. Killingsworth answered; each one of us went home after the interviews, and took the questions that were asked in our notes and related those to the qualities that were listed on the performance skills evaluation and gave them individual scores, then came together and met the next day to compare. She reminded council that this is public information. If he/she gets hired it goes into their personnel file, it isn't even the person that doesn't get hired business. Discussion followed regarding the performance scale sheet. Phil Fisher stated; to make a good decision on anything, I really feel the more information I know about the person and everything about them. I want to make a really well informed decision, not just say these are the two, this is what we want, and now vote. To me it's not a very informed decision; I feel the more I know about the whole situation and process, it is going to make my decision better. I don't want to say, ok, this is your recommendation and now I understand way more than what that letter says. Killingsworth advised that they didn't talk about how we scored them, or change the scores after we met and discussed them. Discussion followed.

Gary Rose asked Maffit about his wife serving on the School Board with one of the candidates. Maffit answered it doesn't matter because the decision is made on the information gathered, not on personal things. I judge people's actions on how they interact with other people and the decisions they make. Maffit continued; I can put those feelings aside. Gary Rose stated; I went in and talked to the Mayor and when he told me it was Wayne Maffit, I went whoa!, but on the other hand, if you were going to be on a Jury, they would make you leave. This is the same thing as a Jury, you go by the facts. You have to understand why we feel like that. Maffit advised that he drew a line through a few questions that he didn't feel he could make an educated judgment on.

Gary Rose asked; how did broader experience come up. Was there a big separation there or just a little bit. Maffit stated; there was a big difference. One had close to ten years and the other one two and a half years. Discussion followed regarding the ad in the paper requesting preferable experience of between 5 and 10 years. Maffit stated; we didn't look at that so much either. Basically I made my decision on asking the people they worked with.

Gary Rose asked; how long were the interviews. Lynn Ward answered; I think one had been longer than the other, but about an hour.

Fran McCully stated; reading this, it seems like a lot of this is personality issues. You talked about a two year contract, and we don't have anything after 1984 when Mr. Fennessy was hired. Deanise stated; you should re-appoint every two years on record. The clerk stated; we do, they are in the minutes. Killingsworth continued; and there are processes in place so you can un-appoint in a year if it's that bad. McCully stated; that would give me ease of mind. We haven't been told this. Phil Fisher read from the MCA 7-4-4603. There was discussion on the process it takes to un-appoint, remove, or suspend a city attorney.

Mayor Banning advised that we are a third class city and read aloud the MCA stating that we may retain the county attorney to provide legal services for the city in cases not involving a conflict. Banning advised that he had called the county to see if they could help in the event that Troy goes without an attorney for an extended period of time, and they said they didn't have the time to help us. McCully stated; but it also says that the council can hire an attorney. Banning read aloud from 7-4-4605 that states that. He advised that the cities taking advantage of this are larger cities that have the funding. Discussion followed. Deanise Killingsworth answered; if we had a big case that warranted hiring an attorney, we can. More discussion regarding the ability to suspend cases followed. Fran McCully stated that she wished there were more than two candidates. Other council members agreed.

Phil Fisher thanked the committee for their time. Wayne Maffit expressed that he hoped the Council read the information the committee offered.

Mayor Banning advised that the term "residency" requirement for the state of Montana is when it involves elected positions. A committee member does not have to be a resident. Fran McCully stated; that wasn't why that question was asked. It was just that we wanted to know if she really has the best interest in this town.

Wayne Maffit asked council if they as a council can be un-biased enough to hire the candidate recommended.

Discussion followed regarding the 4th of July Ordinance.

PUBLIC COMMENTS: None

Meeting adjourned at 8:00 p.m.

Donald C. Banning, Mayor

ATTEST:

Sandra Johnson, City Clerk/Treasurer