

**Troy City Council Meeting
Council Chambers
February 16, 2011
7:00 pm**

The meeting came to order at 7:00 pm. Present: Mayor Banning, Council: Phil Fisher, Fran McCully, Gary Rose, and John Clogston, and City Clerk Sandra Johnson.

Mayor Banning lead the Pledge of Allegiance.

GUESTS: Robert McLeod-Chief of Police, Jeff Bonifas, Jennifer Bonifas, Jim Amell, Bobbie Amell, Robert Welch, Joyce Welch, Michelle Cilaiami, Crystal Denton, Joe Arts, Scott Sullivan, Sandi Sullivan, Shelly garrison, Payton Norman, David Norman – Public Works Director, Barbara Pence, Gerald hays, Linda Hays, Wayne Maffit, Sylvia Maffit, Donna Rugani, Sharon Johnson, Dennis Stone, Tena Stone, Canda Harbaugh, Craig Pierce, Joseph Garrison, Clint Taylor – Power Manager, Susie Taylor, Jayne Brown, Barbie Coldwell, Daren Coldwell, Bob Basham, Glen Garrison, Janine Price, Shelly Warrick, Dean Nelson, Keith Wagner, and Buck Buchanan.

ATTORNEY APPOINTMENT: Mayor Banning explained that there was no motion made at the previous meeting to approve the appointing James Reintsma for City Attorney and called for a motion. Gary Rose made the **Motion** to approve James Reintsma for City Attorney, and Fran McCully seconded it. No discussion. Mayor called for a vote, **Motion failed**. Phil Fisher – N, Fran McCully – N, Gary Rose – N, and John Clogston abstained.

MINUTES: Phil Fisher made the **Motion** to approve the minutes of January 13, 2011 Council Work Meeting, January 17, 2011 Council Special Meeting, January 19, 2011 Council Regular Meeting, January 31, 2011 6:30pm Special Meeting, and January 31, 2011 7:00pm Special Meeting. Gary Rose seconded the motion. **Motion carried**. Phil Fisher – Y, Fran McCully – Y, Gary Rose – Y, and John Clogston - Y

DEPARTMENT REPORTS: *Public Works:* Dave Norman- Norman advised that he is aware of the condition of the streets, his department is trying to keep up with the pot holes with sand and gravel until the pavers are in town for the walking path, to keep the expense down. He advised that he ordered drains and the cost was over \$600 per set, but the main expense is the shipping. He plans to put one on the West side of Yaak Avenue and 4th street. The department will be replacing about 300 feet of the water main between Kalispell and Spokane on 4th street. The most expense there, will be asphalt overlay. Norman advised that the sewer inspection went well and he was advised that the discharge permit to the Kootenai River will need to be renewed, with the application for that due in July of 2012. He advised that we won't see a lot of changes but the previous samples are a good thing for the data on the permit application. One regulation is that we monitor the amount of wastewater going into the lagoon, so we will have to have an electronic meter that will monitor this and they are about \$1,600 to \$1,800, but we can do the installation ourselves. John Clogston asked if it would be tied into the present SCADA system. Norman answered; no it will be separate, but it would be nice to tie them all together, additional controls would be needed. Phil Fisher asked if he was only installing the one drain on 4th. Norman answered one, and has many more ideas for a location for the second drain. Phil Fisher asked if he only planned on placing gravel over the drain area. Norman answered; some cement will be used, then gravel until the pavers are in town to pave it. It will look similar to the one installed by the City Hall building. Mobilization for paving is a big cost, so he would like to wait until the paving company is already in town. Gary Jones asked Norman if there was any progress on the water feature at the park. Norman answered; yes, we are starting to move on this. *Police Department:* Robert McLeod- McLeod read his report to council and those present: Animal Control is \$30 in the hole with an impounded dog and no owner found. McLeod explained the Animal Control contracts with Debbie's Pet Grooming, KPFL, and Lincoln County Animal Control. Wayne Maffit had questions regarding animals outside city limits. McLeod explained that they no longer have a

2 mile radius to pick up animals; they have to be inside city limits. *Power Company:* Clint Taylor-Taylor advised that the department has been tree trimming in alleys between Missoula and Spokane on the 200 blocks and Riverside and Parkside. He advised that they have been watching the high water at the hydros. Everyone was trained in CPR recently. You must have this training every two years There was a fire extinguisher inspection for the year. He also explained the circumstances regarding Sunday's power outage. Taylor also advised that he met with CT Beede, and which Fran McCully was present. The discussion was pretty much what we had talked about the month prior. As soon as we get a City Attorney, we will get the information to him for review, then have a public hearing on rate schedule. *City Hall:* Sandra Johnson- reported that the auditor will be coming in for FY 09/10. She will be coming in by March for some entry level questions, then back again for four or five days later to continue the audit. We do have to have a OMB133 circular this year because of the amount of federal money received. We are also finishing up everybody's reporting. The employee W2s and 1099's are out.

NEW BUSINESS:

Business License: E-C Lease Co. LLC. Owners: Con and Marlyse Lee. Business Location: 219 Kootenai Ave E. Owners were not present. Mayor Banning read the information on the application. They also own Montana Hydrogen Co. Inc., and they now want to lease the equipment they manufacture. Banning asked if there was a requirement for special licensing. No. Motion to approve the Business License for E-C Lease Co. LLC was made by Gary Rose and seconded by John Clogston. Discussion: Phil Fisher asked; he is going to lease them? The clerk answered, yes. Motion carried. Phil Fisher – N, Fran McCully – Y, Gary Rose – Y, John Clogston – Y

Ordinance No. 632 for the repeal of Ordinance No. 629: Mayor Banning read the ordinance, then called for a motion. Gary Rose made the **Motion** to approve Ordinance No. 632 repealing Ordinance No. 629, and Phil Fisher seconded it. No Discussion. **Motion carried.** Phil Fisher – Y, Fran McCully – Y, Gary Rose – Y, and John Clogston - Y

The Mayor recognized Fran McCully: Fran McCully made the **Motion** to call a Special Meeting on February 18, 2011 to address the work meeting items that were not on the agenda; more specifically: 1) Resolution - Hiring an independent attorney for union negotiation. 2) Resolution – When Mayor is physically out of town for more than 24 hours. 3) Resolution – requiring all policies to be given to Council by February 18,2011. 4) Resolution establishing quarterly newsletters by the council. 5) Resolution requiring log books from the Troy Police Department. 6) Union steward meeting to discuss the cease and desist letter, and 7) potentially closed session regarding an employee. Mayor Banning stated; I'll rule that motion out of order for the following reasons: any Ordinance or Resolution that needs to be brought before the City Council must be presented to the City Attorney first. Mayor Banning read aloud from the Troy City Code book 2-14-010; *while it may not be essential that the City attorney draft every Ordinance for consideration by the council. It is a very good idea to require that the City Attorney review every draft Ordinance for legal sufficiency prior to final adoption by the council.* Banning continued; that is to make sure that all the legalities and the wording is correct so we won't be passing Ordinances and Resolutions that are against the law. So I rule that out of order since we have no City Attorney to present it to. Gary Rose stood up and read from a paper stating; I call the chair to order. I appeal your ruling and I make a **Motion** for an up or down vote on the Mayor's ruling. Phil Fisher seconded the motion. Gary Rose asked for discussion. Fran McCully told Gary Rose to call for the question. Gary Rose called for the question stating; all for the Mayor's ruling a special meeting indicate by the raising of your right hand. Mayor Banning stated; I'm chairing the meeting. Mayor Banning stated to Gary Rose; go ahead and sit down and I'll call the question. Gary Rose stayed standing and stated; point of order, I call the chair to order. I appeal your ruling and I make a **Motion** to have an up or down vote on the Mayor's ruling. Mayor Banning stated; okay, take a seat and I'll go ahead and call for that. Mayor Banning added; and I'm not sure on Roberts Rules of Order what this is all about, but to satisfy Council, I will ask for a vote on that particular question. Mayor Banning asked Gary Rose to repeat his question. Gary Rose stated; all for the Mayor's ruling on the special meeting, indicate by raising your...Fran McCully interjected and stated; the question is; do we sustain your ruling, that is what you have to ask. Mayor Banning asked; so you're appealing my ruling of out of order. Gary Rose answered; yes. Mayor Banning stated; all those in

favor; Fran McCully directed the Mayors attention to a paper stating; it's at the bottom. Mayor Banning again stated; all those in favor of the decision of the chair of the Motion in question signify by raising your right hand. Phil Fisher and Gary Rose asked him to repeat it. Mayor Banning stated; you're appealing the decision of the chair on the Motion in question on ruling it out of order. All those in favor signify by raising your right hand. All those opposed signify by raising your right hand. Gary Rose stated; we are opposed to your ruling. Mayor Banning asked the Council; are you all four opposed to it. They all concurred. **Motion carried.** Phil Fisher – Y, Fran McCully – Y, Gary Rose – Y, and John Clogston – Y

Water Project –Phase II:

Phil Fisher interjected and read aloud from a paper; I make a **Motion** to postpone to a certain date of February 18, 2011 for immediately following the special meeting above to address the remaining agenda items not heard here. Fran McCully seconded the motion. Mayor Banning called for the question; all those in favor of postponing the meeting. Guest Janine Price asked; exactly what are we postponing, the rest of this meeting? Fran McCully answered; yes, until Friday. Phil Fisher read aloud again from his paper stating the date of February 18, 2011 to discuss the remaining agenda items. Janine Price reiterated; so all the agenda items you have going Fran, plus the rest of tonight's agenda all on February 18 th.. Fran McCully answered; yes, in two special meetings. **Motion carried.** Phil Fisher – Y, Fran McCully – Y, Gary Rose – Y, and John Clogston - Y. Mayor Banning stated; meeting stands **adjourned.** 7:35 p.m.

Water Project Phase II-S & L Underground Request No. 8 for \$14,038.92 – Not heard

Sterling Codifers Contract – Not heard

Amendment to Auditors Contract – Not heard

We can still have public comments.

PUBLIC COMMENTS:

Wayne Maffit asked Council to stick around for a moment. He asked; I for one would like to know why the Council turned down the committee's recommendation for the City Attorney. Maffit continued; I think you owe it to those on the committee why you refused to even vote on it the first time, and why you are saying now that you do not want what the committee determined as a recommendation for hiring the City Attorney. Phil Fisher answered; we never voted on it. Maffit replied; you didn't the first time, I understand that, but you just did. Fisher replied; we just did tonight. Maffit reiterated; why did you not the first time and why are you doing so now. Fisher stated; so we can carry on with the process of hiring an attorney. Fran McCully agreed. Maffit asked why they turned down the committee's recommendation. Phil Fisher answered; I have a couple, one, he had made a private phone call and in that phone call he was bad mouthing some citizens of Troy, and to me, to be the City Attorney of Troy, you can't do that. Maffit asked; and you saw this or heard this by yourself? Fisher stated; yes, and added; I don't feel it is in the best interests of the citizens of City of Troy to share an attorney with the City of Libby. Maffit stated; that's not a valid reason when he had much more experience. Fisher answered; I'm not talking about no other attorney. I'm talking sharing with the City of Libby. Maffit asked; and Fran is that your reason. Fran McCully stated; yes. Maffit stated; I still see somebody else at work with the City Council and it's really too bad because I don't think the people of Troy back you in hardly any of the things you make decisions on, because you make such poor decisions. I'm really sorry that that takes place here.

Daren Coldwell thanked Council for giving us an opportunity to get a shot at the 4th of July. Guest from the audience agreed and said thanks for repealing that Ordinance. Coldwell continued; we

appreciate it and have a great crew that is now working on it and it is going to make a big difference and I think what you did tonight will change the moral in the community.

Meeting adjourned 8:06 p.m.

Donald C. Banning, Mayor

ATTEST:

Sandra Johnson, City Clerk