

**Troy City Council Meeting
Council Chambers
May 18, 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, City Attorney Charles Evans, and City Clerk Sandra Johnson.

Mayor Banning lead the Pledge of Allegiance.

GUESTS: Robert McLeod, Rick Blomdahl, Lindsay Blomdahl, Jill Blomdahl, Donna Rugani, Jayne Brown, Jean Meyer, Jim Schreiner, Gerald Hays, Payton Norman, Rachelle Nicholls, David Norman, Mike Ormiston, Michael Amelsberg, Janine Price, Steve Bowen, Clint Taylor, Susie Taylor, Martin Holzmann, Greg Lundin, Ande Hawkins, Jana Luithje, Jacob Lopez, Kody Hoffman, Andrew Selle, Kimmy Klin, Justice Sanchez, Jeremiah Johnson, and Tracy Rebo.

MINUTES: Gary Rose made a **Motion** to approve the minutes of: Special Council Meeting April 14, 2011 at 5:30 pm, Special Council Meeting April 14, 2011 at 5:45 pm, Council Work Meeting April 14, 2011 at 6:30 pm, and Regular Council Meeting, April 20, 2011. Fran McCully seconded the motion. **Motion carried.** Phil Fisher – Y, Fran McCully –Y, Gary Rose – Y and John Clogston – Y

DEPARTMENT REPORTS:

Public Works: Dave Norman advised that they are starting to have some success patching the streets. He informed future plans for paving and has contacted Kootenai Paving. Two dry wells were received and soon to be installed. The department has been working at the baseball fields and cemetery. Some high school students will be volunteering at the cemetery on the 19th of May. Fran McCully asked Norman if he had a plan of action for the two dry wells on Second Street that aren't performing. Norman answered; there isn't a proper base and has to be dug out and eventually re-done. It won't be this year but will be in the budget for the next year.

Police Department: Bob McLeod read aloud the Animal Control Report. He read aloud the summery of Police Department Report. McLeod advised that he has been trained on the new on-line reporting system that Montana Board of Crime Control has installed.

Power Department: Clint Taylor advised that the new OCR up at the substation is on line and working properly. The electric crew and public works crew helped set the large flag pole at the park. Taylor reported on the higher than normal power outages due to wind storms. Some extra time was spent at the hydros with high water. Taylor advised that all city departments helped at the annual fishing derby for achievements.

City Hall: Sandra Johnson advised that the auditor will be back next week and the federal reports for the project will be completed. The auditor will return in another month to complete the audit and give her report to council.

NEW BUSINESS:

Business Licenses: Centerline Enterprises- Owner: James Schreiner, location is 16995 US Hwy 2 in Troy. Schreiner explained that he has been in business for 28 years and hasn't renewed for the past couple years. Phil Fisher made the **Motion** to approve the Business License for Centerline Enterprises and Gary Rose seconded. **Motion carried.** Fisher – Y, McCully – Y, Rose – Y and Clogston – Y

Mountain View Hearth Products- Owners: Michael and Nicolette Covey, location is 302 E Missoula Avenue in Troy. Not Present. Phil Fisher made the **Motion** to approve the Business License for Mountain View Hearth Products and John Clogston seconded. **Motion carried.** Fisher – Y, McCully – Y, Rose – Y and Clogston – Y

Loosen Up Therapy & Bodywork- Owner: Lindsay Blomdahl, location is 44 Callahan Creek Rd. Blomdahl explained she has previously worked in Libby and Bonners Ferry, and is opening up in Troy. Phil Fisher made the **Motion** to approve the Business License for Loosen Up Therapy & Bodywork and Gary Rose seconded. **Motion carried.** Fisher – Y, McCully – Y, Rose – Y and Clogston – Y

Police Commission: Mayor Banning advised that there are two openings. One is a two year term and the other a three year term. He received a letter of interest from Gerald Hays and ask for approval for this appointment. Phil Fisher made the **Motion** to approve the appointment of Gerald Hays to the Police Commission and Gary Rose seconded. Discussion: Fran McCully asked how it was determined to have him fill the two year or the three year term. Mayor Banning answered; the three year opened this month. Nancy Wagner's remaining term will be next month. **Motion carried.** Fisher – Y, McCully – Y, Rose – Y and Clogston – Y

OLD BUSINESS:

City/County Planning Interlocal Agreement: Kristin Smith – Advised that everyone should have received the final draft with some blank spaces for official motions. A final agreement was sent by the city attorney for approval. Phil Fisher made the **Motion** to approve the City/County Interlocal Agreement and Gary Rose seconded. **Motion carried.** Fisher – Y, McCully – Y, Rose – Y and Clogston – Y

Windjammer Contract (Cable Company): Phil Fisher made the **Motion** to approve the Windjammer Contract and Gary Rose seconded. Discussion: Phil Fisher asked if this was approved before. Clint Taylor answered; yes, but they sent it back after their attorneys reviewed it. There was question about liability. Taylor continued; after their changes, we had our attorney look at it and add changes. Now we are sending it back to them again. **Motion carried.** Fisher – Y, McCully – Y, Rose – Y and Clogston – Y

BPA – REP Settlement Agreement – Amended: Phil Fisher made a **Motion** to approve BPA-RPA Settlement Agreement Amended and Gary Rose seconded it. Discussion: Clint Taylor advised that it didn't pass the first time. BPA is trying it again with a 75% instead of a 91%. Fran McCully asked; percentages and dates are the only thing that changed. Taylor answered; yes. **Motion carried.** Fisher – Y, McCully – Y, Rose – Y and Clogston – Y

Audit Contract with Nicole Noonan: Gary Rose made the **Motion** to approve the audit contract and Phil Fisher seconded the motion. Discussion: Phil Fisher asked how much was paid to her in 09/10. The audit being done now for FY 09/10 is going to be \$8,300, however; \$4,500 will be paid by the project. Fisher asked if this is her normal fee. Yes; you will notice it goes up about \$100 per year for each of the three years. Discussion regarding extra fees for the project. **Motion carried.** Fisher – Y, McCully – Y, Rose – Y and Clogston – Y

Update on City Clerk/Treasurer Position: Mayor Banning stated; per personnel policy, I have promoted Tracy Rebo to the office of City Clerk/Treasurer and Sandi Sullivan to the office of Deputy City Clerk/Utility Billing Clerk effective July 1, 2011. Mayor Banning advised that Sandra Johnson had tendered her resignation effective June 30, 2011. Gary Rose asked; so they move into those positions and we don't have anything to say about it. Mayor Banning answered; it is per the personnel policy. A new hire for department head would need approval by the Council. This is a promotion. Mayor Banning read aloud from the personnel policy under *Promotions*. Mayor Banning asked Attorney Evans if this was correct. He replied; I haven't reviewed the issue, so I can't say. Discussion followed regarding new-hire versus promotion for department heads. Banning stated; Mr. Evans will look it over, until he is done, it stands. Evans stated; there is a legitimate issue. The Charter refers to the word "appoint". There is a question if this is different from that; then it may be required that the Council approve, whether appointment is the same as a promotion. Mr. Evans stated; you can appoint someone temporarily until I can provide guidance in this to you and council.

CLAIMS: Gary Rose made the **Motion** to approve the claims and Phil Fisher seconded the motion. Discussion: Phil Fisher questioned the claim for repair to a banner to Three in One Sewing. Clint Taylor let him know the banner is city owned. Phil Fisher questioned the claim for breakfast for the power department on a power outage. Clint Taylor advised that it is in the Union Contract that if they are on an outage during normal breakfast hours or two hours after quitting time, the City is obligated to pay for the meal. That was the morning of the Iron Creek outage. Discussion continued. Phil Fisher questioned the reimbursement for supplies during cemetery clean-up. Clint Taylor answered; the City feeds the school volunteers a hotdog lunch for appreciation of their work. Since I was in Kalispell, they asked if I would pick up the supplies. Mayor Banning called for a vote on the question. Fran McCully asked; doesn't the public get to enter in discussion. Mayor Banning answered, not in a motion; they can in the public comment period. Phil Fisher asked about the Mike Fraser invoice regarding hiring an architect. It was advised that those fees are included in Mike Fraser's fees. It is not additional. The architect is needed for the type of building it is. Mayor Banning again called for a vote on the question of the claims in the amount of \$80,302.65. **Motion carried** with the Mayor's deciding vote.

Fisher – N, McCully – N, Rose – Y, Clogston – Y, Banning – Y.

PUBLIC COMMENTS: Heather McDougall asked if Mike Meloy submitted a bill and if it was paid. Mayor Banning replied that we have not received any court orders for anything. McDougall continued; the Council made a Motion for his attorney fees to be paid. Mayor Banning asked City Attorney Charles Evans if he was aware of the Council filing suit and requested that the City pay for the expenses for court costs. Evans asked; in the complaint the City Council asked for reimbursement for attorney fees. Heather McDougall stated; no, they passed a Motion to pay for the attorney fees. Evans answered; the litigation is on-going. McDougall replied; and you pay attorney fees on-going, as he does work. Mr. Evans stated; there has been no decision by the Court as to the final outcome; is on-going until the Judge awards it to one side or the other. McDougall stated; no, the Council can hire their own attorney, which they did, so the City is going to pay for the attorney fees regardless. Evans replied; the Council may not be successful in their suit. McDougall replied; it doesn't matter. Mr. Evans stated; I don't know of a statute that allows for paying of attorney fees on an on-going basis of a lawsuit brought by the City Council. McDougall stated; there is a statute that they can hire outside council, and they did. Evans replied; I understand that, the City Council can, but I don't know any statutes about paying attorney fees on an on-going basis. Mayor Banning stated that this is not the place for this discussion and asked for any other public comments. Fran McCully stated; we want a work meeting on Friday. Charles Evans stated that he had a conversation with Fran McCully and Phil Fisher about the Resolutions that were presented but not addressed. Evans also stated that he had spoken to the Mayor previously, and they decided the best way to address these issues was at a work meeting. Evans stated; if it can be done without inconveniencing the Mayor and the City Clerk, then it would be in the best interest of everyone at this time, so there can be something to plan on. Mayor Banning stated; I understand that they want a work meeting, and it will be done, probably in a matter of days, when I can find out what we have going on. Heather McDougall stated; there is a Resolution and a law that they can give 48 hours notice and call their own meeting.

ADJOURNMENT: Mayor Banning adjourned the meeting at 7:55 p.m.

Donald C. Banning, Mayor

ATTEST:

Sandra Johnson, City Clerk