

Troy City Council Meeting
Council Chambers
March 21, 2012
7:00 pm

The meeting came to order at 7:00 pm. Attending were Mayor Donald Banning, Council: Phil Fisher, Joe Arts, Crystal Denton, and City Clerk Tracy Rebo. Fran McCully excused absent.

GUESTS: Susan Monahan – KVR, Gary Rose, Linda Rose, Barbara Pence, Larry Coryell, Karen Hubbard, Bill Hubbard, Joyce Welch, Bob Welch, Dennis Dupuis, Jayne Brown, Donna Rugani, Dorothy Bucci, Ray Bucci, Wayne Maffit, John Clogston, Victor I. White - EMA, Sandi Sullivan Robert McLeod- Chief of Police, Allen Olsen, DC Orr, Chris Reichert, Steve Bowen, Heather McDougall, and Fran Stanton.

MINUTES: Crystal Denton made the **Motion** to approve the Minutes of City Council Work Meeting of February 9, 2012, City Council Regular Meeting February 15, 2012, and City Council Work Meeting March 8, 2012. Joe Arts Seconded. Discussion: Phil Fisher made mention that the signature line on the March 8, 2012 line was incorrect. Rebo advised that she would correct it. **Motion carried.** Fisher – Y, Denton – Y, and Arts - Y

DEPARTMENT REPORTS: *Mayor:* None. *Public Works:* submitted a written report to Council. *Power Department:* submitted a written report to Council. *Council:* None. *Police Department:* Chief of Police Robert McLeod read aloud his report that consisted of 245 calls through Troy Dispatch. He advised that there is a POST certified training in Kalispell in May, at no charge to the City other than transportation. The radar unit was installed in the Dodge patrol vehicle. He advised that he signed an agreement with the North West Taskforce, which is necessary to use their services. The reimbursements from Lincoln County Sheriff's Office has been received for the compliance check that Troy PD assisted with, there are future plans for more. McLeod advised that he met with the schools regarding procedures to follow in the case of a school shooting emergency.

NEW BUSINESS:

CITY ATTORNEY: Mayor Banning stated his appointment of James Reintsma for City Attorney. Phil Fisher made a **Motion** to go back to the original hiring process for selection of the City Attorney; going back to advertising, and committee selection, and then council approval. There was no second. **Motion Died.** Joe Arts made the **Motion** to approve James Reintsma as the City Attorney. Crystal Denton seconded the Motion. Discussion: Denton stated that she agreed with Fisher for the hiring process, however; knowing that the City needs an attorney now, she agreed with appointing Reintsma now. Fisher asked Banning if appointing Reintsma as City Attorney would be a conflict due to having Reintsma as his personal attorney. Mayor Banning stated; not to my knowledge. Fisher stated; from what I know of the laws, he can't be an attorney for you and for the City, I see a conflict of interest. He stated that Betsy Barambah had stated that it is against the BAR for ethics. Heather McDougall stated that the only way you can waive a conflict is if your attorney waives it; and since the City doesn't have an attorney right now, it would have to be a unanimous vote by the council to waive the conflict to hire Reintsma. And it is definitely a conflict. Mayor Banning answered; you will have to show me that in the statutes. McDougall answered; it isn't in a statute it is in ethics. Banning stated; then it goes by what the statutes say, and the statutes state; the Mayor shall appoint a city attorney subject to approval of the city council. McDougall stated; but you have a conflict of interest. Banning answered; not any longer, the case is over. McDougall asked; so you are not going to appeal. Mayor Banning answered; I haven't done anything yet. McDougall stated; if you appeal, then there is a definite conflict. Banning stated; he will be representing the City of Troy, because he

is not representing me at this time. John Clogston stated; in all good consciousness, I don't see how the Council can even entertain the motion to hire Mr. Reintsma with him wanting to sue the City of Troy for \$150,000. Mayor Banning asked Clogston to read the entire letter he is holding. Banning added; that is done and over with as of October of last year. Clogston asked; why am I just getting this last Friday. Banning stated; you received it when you were a councilman, when it was first received. Linda Rose stated; I was married to a councilman and he never got a copy, John never got a copy, Phil never got a copy, and Fran never got a copy. The only time they got a copy, is when Phil got a copy last week. Sandi Sullivan asked how John received a copy last week. Clogston answered; a councilman handed it to me. Banning stated; it is addressed to the Mayor and City Council, you all received copies of it in your boxes, and it is your responsibility to get your information from your box. Clogston stated; I never received this piece of paper in August, or September, or October, or November. I didn't see it until last week. McDougall stated; I understand that there are criminal court cases going on, why you don't have the Attorney General come into the court, because that is really what the pressure is to have an attorney. Mayor Banning stated that the Attorney General is unavailable to help at this time. Rose asked Fisher how he received the letter. Fisher answered; last week, because I filled out a Right to Know for Public Information with the City of Troy. Rose asked; so you've never seen the letter before then. Fisher answered; no, but I knew there was a letter filed with MMIA because they had been in contact with me over the charges that were trying to be brought up against me. I spoke with them three times and never heard another thing after. Robert McLeod stated; Heather, to answer your question; I had discussed with the Judge about going back to the Attorney General's Office to get an attorney there. He said they were backed up about four months before they would be able to send someone. McDougall stated; but you can do stuff telephonically. McLeod advised; my input would be that we come up with some sort of a solution right now. We have 55 cases at this time. Some are very serious charges, so I'm hoping we can come to some kind of an agreement so we don't lose these. Larry Coryell stated that he had several questions for the Mayor and asked if he would answer them as I go down my list. Coryell asked; is the position a salary employee or a personal services contract. Banning answered; it is a contract position, not an employee. Coryell asked; what is the amount of compensation. Banning answered; \$19,500 a year. Coryell asked; if it is a contract, has the Council reviewed and approved the contract. Banning answered; the contract has not been negotiated yet, and two members of the Council will be part of the contract negotiations with the attorney. Coryell asked; have you sought the advice of the Council in this matter. Banning answered; no. Coryell asked; have you had a background and credit check done on him, and if no, why not. Banning answered; I don't remember if that was performed on him as part of the original committee report or not. Coryell asked; do you plan to. Banning answered; it depends on what we have to do according to the law and we will do that. Coryell stated; I don't know how you can ask the Council to approve an attorney that is based on a contract. I think you have to have the Council approve a contract before you can ask them to approve the attorney. Banning stated; you have to appoint an attorney before you can approve their contract. DC Orr stated that he was a councilman in Libby a year ago, and had an attorney that advised us to hold a meeting with the EPA in secret, to withdraw from the public and not hold them publicly. We followed our attorney's advice and bottom line was that there were decisions made at that meeting to not allow the public to be involved with the access agreement with the EPA. The EPA is now using that to log institutional controls on every parcel of property that they have worked on, violating people's property rights in a horrendous manner. There will be deed restrictions; basically they can just take your property. As council member I was hoodwinked by our attorney. The attorney came back a month later and issued an opinion that he had given us bad advice, and hadn't been properly notified what the issue was going to be. I was recording the meetings. He gave us the advice on March 8th. On March 7th, he sat between the Mayor and I while we discussed whether or not we had the authority to close our public business to the public, and it is the same attorney you are discussion today. Orr advised that it is very important that you have someone that is ethical and honest in this position. Fisher asked the Mayor why

he made the decision to only have two council members. Banning answered; because three is a quorum. Fisher stated; we can do it at a work meeting. Discussion followed. Mayor Banning called for the Question. **Motion Failed.** Fisher – N, Denton – N, and Arts - Y

EECBG PROJECT PAY REQUEST No. 1: J.L. Regh Cont. Inc - \$30,012.75- Fisher made the **Motion** to pay the EECBG project pay request. Crystal Denton seconded the Motion. Discussion: Fisher asked when the contractor would be done. Banning advised when the order for the remaining windows is in and installed and the painting is completed. **Motion Carried.** Fisher – Y, Denton – Y, and Arts - Y

BUSINESS LICENSE: You Scream Ice Cream- Mobile ice cream vendor. Mayor asked if she was present. Tracy Rebo advised that she had been in contact with Day, and she isn't feeling well and is still waiting for her food handler's permit from the State. Banning stated; we can't act on it, we can bring it back to the next regularly scheduled council Meeting.

BUSINESS LICENSE: Peiffer Mobile Tool Distribution (DBA Snap-On Tools) Mobile tool sales and services. Mayor Banning asked if he was present. Sandi Sullivan advised that she had been in contact with him, and he will be sending a letter with explanation because he was unable to attend. She added; that the City hadn't received it yet. Discussion: Fisher stated that without the written statement or being present, it wouldn't be fair to anyone else to approve it as of now. Denton mentioned him having a local representative attend the meeting. Mayor Banning stated to bring it back to the next regularly scheduled meeting.

BUSINESS LICENSE: Dan Savage Jr. "DJ" – Computer repair, cellular, and karaoke. Mayor asked if he was present. He was not present. Banning stated; we will bring it back to the next regularly scheduled meeting.

RESOLUTION: NO. 652 – Adopting Lincoln County Pre-Disaster Mitigation Plan- Victor White, the emergency management director for Lincoln County. The grant received to hire a contractor to write the plan along with various representatives was discussed. With the information, a plan was built with all the federal guidelines. White advised that without the adopted plan, entities cannot apply for FEMA funds in the event of a natural disaster. It is a five year plan. Crystal Denton made the **Motion** to approve Resolution No. 652 adopting the Pre-Disaster Mitigation Plan. Phil Fisher seconded the motion. White advised that any time the City needs advice or what we do, please contact our office and they would be happy to come and discuss it with you. McDougall asked if there was any down side to passing this Resolution. White answered; I'm not aware of any. It has been done through the County for several years. Discussion followed regarding examples of situations that the funding would be needed. Mayor Banning read aloud the Resolution and called for Question. **Motion Carried.** Fisher – Y, Denton – Y, and Arts - Y

OLD BUSINESS:

CLAIMS: Crystal Denton made a **Motion** to accept the claims in the amount of \$129,822.05 and Joe Arts seconded the motion. Discussion: Fisher asked about the two claims for a customer. Rebo advised that part was deposit returned to him, and the other was returned to the state for reimbursement of fuel assistance. Fisher questioned the payment to Ralph Lippert, asking if it was for work completed and for brackets. Rebo answered; it is only for the brackets. McDougall asked why the Contractor Regh had to have a separate agenda item for approval and Lippert's is in the regular claims list. Rebo answered; because Regh is paid from grant funds. **Motion Carried.** Fisher – Y, Denton – Y, and Arts - Y

PUBLIC COMMENTS: Wayne Maffit stated; in the past Troy has had animal control and I don't know why the Council decided we should no longer have one, especially when the report came in tonight had twenty three complaints. Maffit continued; Thursday night I had two dogs come up on my porch and attack my elderly cat that resulted in very bad injuries that needed veterinarian attention, and now the cat is convalescing. I would like the council to reconsider an animal control position Fisher asked Chief McLeod how many complaints were for animals at large. McLeod said his report only had total complaints; he would have to look at a different report. McDougall stated that she would like to see an analysis done, because tickets were only being written one per month. It wasn't worth paying wages of \$1,000 per month for one ticket issued. She stated she didn't see why the police department couldn't take over. Sullivan stated that she thought the animal control fell under public health, not police. McDougall responded; we are a small town and I think that sometimes you need to step out of the box a little bit and do more than what your job description says, and I don't think that it is that hard for a police officer to respond. Maffit stated the problem is that people hear there is no animal control in Troy, so they allow their animals to run. Denton stated that she would like to see the issue come before the council again. Mayor Banning stated the council saw fit to remove animal control from the budget with a resolution that stated anyone doing animal control would not be paid and that resolution is still in effect. Steve Bowen stated that there is a leash law so owners can still be cited. Banning stated; I don't know who by, because if they do it, they don't get paid. Fisher stated; when that resolution was made, it wasn't made to stipulate that nobody would be paid for doing animal control. It was made to eliminate the position of animal control. Fisher added; in the policy manual it doesn't state the police, but it refers to the police to take over the responsibility. McLeod explained the training for animal control and the immunizations necessary to do the job. He continued that the cost of the immunizations would be about \$400.00 per officer and the training classes would cost about \$400.00 per officer as well. Coryell asked what happened to the agreements with the County and KPFL. McLeod explained; we currently have an agreement with them and Debbie's Pet Grooming for storage of animals; however I received a letter over a year ago that Lincoln County will no longer provide animal control services within the city limits of Troy. Coryell stated that he felt it should be revisited. Sullivan asked if the City would have to pay the same amounts for an Animal Control officer to be trained and immunized as they would have to pay for the police officers immunizations and training. McLeod stated that the previous animal control officer applied for the position with all the training and immunizations, so those were at no cost to the City. Maffit stated that the County and KPFL are not taking animals from Troy due to disease. They need to be quarantined for three days first.

ADJOURNMENT: Meeting adjourned at 8:03 pm.

Donald C. Banning, Mayor

ATTEST:

Tracy Rebo, City Clerk/Treasurer