

**Troy City Council Meeting
Council Chambers
December 15, 2010
7:00 pm**

The meeting came to order at 7:00 pm. Present: Mayor Banning, Council: Phil Fisher, Fran McCully, Gary Rose, Loretta Jones, City Attorney Mark Fennessy, and City Clerk Sandra Johnson.

Mayor Banning lead the Pledge of Allegiance.

GUESTS: Robert McLeod-Chief of Police, Thomas Moore, Lisa Brassy, William Moore, Clint Taylor-Power Manager, Susan Taylor, Nicole Heyne, Linda Hays, Gerald Hays, Bill Williams, Bob Welch, Roberta Amell, Jimmy Amell, Diane Dudley, Joyce Welch, Maggie Anderson, Derrick Winslow, Dave Norman-Public Works Director, John Brown, Sean Sullivan, Kalen Sager, Alyssa Olds, Nastassja Hines, Janine Price, Joe Arts, Erin Tallmadge, Megan Cummings, Dennis Dupuis, Check Neisess, Luana Neisess, Kelly Kinney, Jesse, Hansen, Steve Bowen, Steffany Rogers, Sandi Sullivan, Scott Sullivan, John Clogston, Craig Pierce, Joseph Garrison, Heather McDougall, Jerry Wandler, Donny Bennett, Linda Newstrom, Brandon Dodson,

MINUTES: Phil Fisher made the **motion** to approve the Minutes of October 14, 2010 Council Work Meeting, October 20, 2010 Council Regular Meeting, November 11, 2010 Council Work Meeting, November 17, 2010 Council Regular Meeting, and August 9, 2010 Budget Work Meeting. Loretta Jones seconded the **motion**. Discussion: Fran McCully stated on the November 17, 2010 meeting, she would like to see the words “and that is not the case” and “discourteous comments from Council and guests followed” taken out because it states opinion. **Motion carried.** Phil Fisher – Y, Fran McCully – Y, Gary Rose – Y, and Loretta Jones – Y.

DEPARTMENT REPORTS: *Dave Norman-Public Works:* Dave Norman discussed his maintenance plan for the alleys and explained the process. *Robert McLeod-Police Department:* Robert McLeod advised that Kelly Stephens was hired as the new Animal Control Officer. Stephens started work on December 13, 2011. McLeod stated that the interview committee was made up of himself, Officer Colin Barnett, Loretta Jones, and Dave Norman. McLeod also gave his monthly report.

NEW BUSINESS:

BUSINESS LICENSE: Tacos and Moore: Owner Thomas Moore advised that this is a mobile unit serving original Mexican style foods; temporary location is next to the Cenex Station. Phil Fisher asked Moore if he had a written agreement with the owners at the Cenex. Moore answered no, and added; if it doesn't go well, I will go to Libby. He will have only one other employee, and is renting the old senior building at 207 North 4th Street for supplies. Fisher asked if his mobile unit had been inspected by the Health Board. Moore answered, yes. Phil Fisher made the **motion** to approve the business license for Tacos and Moore. Gary Rose seconded the **motion**. **Motion carried.** Phil Fisher – Y, Fran McCully – Y, Gary Rose – Y, and Loretta Jones – Y

OLD BUSINESS:

BOB WELCH AND LINDA HAYES- Chamber's 4th of July Ordinance – Linda Hayes introduced herself as a member of the Cruisers Car Club and read a prepared statement. She pointed out that the Chamber's 4th of July Ordinance seemed to have the same wording that is already in the existing Ordinance No. 611 that stated dogs must be kept with restraints and under control. It also restricts skateboarding. She stated that people should have the right to bring in their own food and drinks; it is a public park. She also stated that the car club would not attend Troy's Old Fashioned 4th of July if Ordinance No. 629 is not repealed, and hoped Council would find a solution to this problem.

ORDINANCE No. 629: Chamber's 4th of July Ordinance - Second Reading- Fran McCully made the **Motion** to approve Ordinance No. 629 and Phil Fisher seconded the **motion**. Discussion: Heather McDougall stated that last year the event brought in 21,000 and only netted 1,000. Where else can you go and see a spectacular fireworks show for free. There are 200 man hours to fill and they don't charge an admission. The beer garden profited \$6,500 and food booths over 11,000. The Rodeo charges \$10, and at any other event they charge admission. You're asking us to police it ourselves. We do the work, but we're not allowed to control it. Robert McLeod asked McDougall if the families are down there for the fireworks or the band. McDougall stated that they brought in the Copper Mountain Band and they have their own following. A guest stated that they come down for the band and bring sandwiches and pop. It is a family thing. Sandi Sullivan asked; why does the fundraising have to focus around alcohol sales on the day of the event and why can't it be done prior to the 4th of July? Bob Welch stated that he has 10 years invested in the car show and haven't had a problem so far. The people that participate in the car shows have \$20,000 to \$30,000 tied up in cars and leave them unattended. Everybody knows that babies need their milk in a cooler and I use Insulin, which needs to be kept cool. Mike Lee stated; if the event cleared \$1,000, then it is self-sufficient. Linda Hayes stated that self policing can be very rude. When you start doing this, it is negative and will drive people away. Maggie Anderson stated; the car club is well represented, they have offered to be on the committee, other people have stepped up as well. Perhaps we could have a town meeting. Phil Fisher stated that there are three members on the 4th of July committee. A guest stated that the car show isn't a little thing. This is a big thing. We can't scuttle this over this deal. Heather McDougall stated; we work all day on this event, where else can you buy beer for \$2.50 and a hamburger for \$3.00. It is about getting the community together. If no Ordinance is in place to keep outside food and alcohol out, everyone will bring it in. Donny Bennett suggested placing donation cans around businesses and asking more people to volunteer. Jerry Wandler stated; if the Ordinance is passed and the police have to enforce it, Bob and his crew will be stretched thin, and are already as it is. The more restrictions you put on, the fewer people will come. Robert McLeod stated that the car show is a planned event that starts months in advance instead of the day of the event. Heather McDougall stated; it's becoming such a large event, we can't control it. A car club guest stated; most people are retired, they bring their dogs, this does not make sense. There are a lot of issues that I agree with; I have sat in line for 45 minutes. My mom can't do this. This is why she brings a cooler. Fran McCully asked if the car club knows that there is an exception that has been made for them. She also let it be known that Debbie from Debbie's Pet Grooming will kennel any dogs during this event. Jerry Wandler asked why kennel a dog if they are already in town? Scott Sullivan stated; it would be difficult to stop a big guy with a cooler if he didn't want this done. An out of town guest asked; where does the \$1,000 go? Heather McDougall answered; back into the fund for the next 4th of July. Sullivan stated; this has sparked a lot of interest, this should have been handled by a committee. Craig Pierce agreed with the last statement and added; there are a lot of personal and financial issues. Mayor Banning explained the process of approving an ordinance. A committee will meet the first week in January. Linda Hays stated; this is not what the Ordinance says; it says; passed and approved becomes law in 30 days. A guest stated; if you ban booze, you should ban the beer garden too. I don't see the car clubbers walking around with a lot of booze. John Brown stated; I was involved in building the park along with the school and Lincoln County. Let's work together to get this resolved. Linda Newstrom stated; if people really want it, people need to step up and volunteer. Donny Bennett stated; the mud bogs in Idaho bring in their own security, maybe you can get more people from the community to help. A guest asked; where do we go to volunteer. Heather McDougall answered; see Steve at Gambles. Mayor Banning read Ordinance No. 629, second reading, and called for a vote. Phil Fisher – Y, Fran McCully – Y, Gary Rose – Y and Loretta Jones – N. **Second reading carried.** Guest asked for clarification on the time frame. It was explained; no food or drink brought into the park except paid participants (including car club) until 4:00 p.m., after that, no outside food or drinks permitted in park at all. Jerry Wandler asked if this means the vendors have to shut down by 4:00p.m. or do they have to take out their personal food and drink already permitted before 4:00p.m.? City Attorney Mark Fennessy explained that from now on another Ordinance has to be passed for any changes. Sullivan stated; this could be a big problem in the future. Linda Hays stated; it already is.

APPOINTMENT OF 2ND MEMBER OF POLICE COMMITTEE: City Attorney Report- Mark Fennessy stated; the Ordinance (No. 510) was established under adverse conditions, and is not a valid Ordinance. It was passed for a specific reason and is not valid, and was known at that time that it was not valid. Fennessy's suggestion was to repeal this Ordinance with the codification. They will point out inconsistencies and suggest those changes.

PRESIDENT OF COUNCIL AUTHORITY: City Attorney Report- Mark Fennessy has researched the conflict with the Statute and Charter. He stated there is no annotation as to that particular statute. It has not been annotated at all and no decisions rendered. There are a lot of rules regarding statutory language and the charter language. I would opine the Charter would prevail in this particular instance. Fennessy added, now what does "preside" mean. Does it mean to actually take the *position* at the time or just to *preside* at the meeting? You must write what you think it is and submit this as to the meaning within the context of that statute. For submission to the attorney general for an opinion it must go through the city attorney's office.

CLINT TAYLOR:

Alley Maintenance schedule- Taylor presented his alley maintenance schedule as it pertains to the power department and what can be completed to July 1, 2011, through December, 2011. He added; I hope this is what the Council wanted to see.

Windjammer Pole Agreement (cable company) - Taylor advised council that there was something in the past contract that Windjammer didn't like pertaining to mid-span tapping. He advised that we don't do that anyway, so taking that out of the contract was alright with him. Fran McCully asked for more definition on mid-span tapping. Taylor explained. Gary Rose made the **Motion** to approve the Windjammer Contract and Phil Fisher seconded the **motion. Motion carried.** Phil Fisher – Y, Fran McCully – Y, Gary Rose – Y, and Loretta Jones – Y

BPA Preliminary Rate Schedule- Taylor presented a three page report to Council stating that we have the good faith estimate from Bonneville Power. It is about a 22% increase. He referred to the first page showing the amounts and kilowatts. Taylor gave some history showing the basic rate being raised from \$6 to \$10 in 2008 in anticipation of the end of the Hungry Horse Contract in 2011. By 2011 our bill will go up about \$220,000. Referring to the second page of the report, Taylor showed what can be done. Lower reserve and/or cut the budget. Lowering the reserve by \$100,000 and doing a 6% increase would bring in about \$56,000. He stated that the charge for line extensions can be raised adding a set- up fee, or a different rate schedule. Fran McCully asked; what did you mean by transmission side. Taylor explained that there are two charges for the power bill; the power side, which is about 80% and the transmission side that is about 20%. The Hungry Horse contract locked in the power side, but the transmission side has changed several times. Mark Fennessy reminded; for any rate increase, there has to be a public hearing. Taylor advised if we do a 6% increase that would equal \$56,000 and lower reserves by \$100,000 we are almost there. Taylor advised that the third page is what Northern Lights charges. He stated that he just wants Council to be aware of what is coming. Bonneville is only doing two and three year contracts, no long term contracts anymore.

Department Report - Taylor advised that the power department has been working on Christmas decorations, snow removal, and hydros, because of high water.

CITY ATTORNEY UPDATE: Mayor Banning announced that Mark Fennessy is retiring as Troy's City Attorney and thanked him for his years of service. Banning stated that upon discussion with Mark Fennessy; to appoint a committee and the committee makes a recommendation regarding appointment of an attorney, and then takes to Council to accept or reject the recommendation. He added; hopefully that will be by the next Council meeting. Guest asked who the choices were. Banning answered; Heather McDougall and Jim Reintsma.

CLAIMS: Gary Rose made the **Motion** to approve the claims in the amount of \$81,606.53 with a second made by Loretta Jones. Fran McCully asked if we paid for all the wire to have the generators installed last month. Clint Taylor answered, yes; the spools come in 500ft lengths, we used about 400 ft for the generator, so there is about 100 ft left. Gary Rose asked if anyone had looked into cost comparisons from different testing labs for the water, as previously discussed. Dave Norman answered; there are only a few that meet the requirements, and with the mailing issue of them needing to get it overnight, I don't see another lab than can do that. Discussion

followed. Don Banning advised that he has discussed this with other Mayors and they are all about the same. It is usually just the difference in postage. Dave Norman advised that the towns of Malta and Plentywood are sending to Kalispell because it is cheaper. He said he would look into it; the DEQ would have a list of labs. Phil Fisher asked about the cancelled check. It was a reimbursement returned to the city with no forwarding address. **Motion carried.** Phil Fisher – Y, Fran McCully – Y, Gary Rose – Y, and Loretta Jones – Y

PUBLIC COMMENTS: Questions regarding president of council and the mayor's absence. A reference was made to the language regarding the State Statue versus the City Charter regarding the absence of a mayor. Perhaps we should be focusing on defining "absence". At what point would the Council President preside. If the mayor is not able to handle his duties then the President of council would step in, otherwise it would be just to preside at meetings. Craig Pierce agreed and added that this should be able to get put together by policy. Jerry Wandler asked where he could get a copy of the proposed rate increase for power. Clint Taylor advised him to stop by the office and he would explain further.

ADJOURNMENT:

Meeting adjourned 8:22 p.m.

Donald C. Banning, Mayor

ATTEST:

Sandra Johnson, City Clerk/Treasurer