

Troy City Council Special Meeting
Council Chambers
March 29, 2012
7:00 pm

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

GUESTS: Linda Rose, Gary Rose, John Clogston, Nathan White, Heather McDougall, and Steve Bowen.

HIRING OF A TEMPORARY PROSECUTING ATTORNEY FOR THE TROY CITY COURT:

Council Phil Fisher had called several attorneys and got a yes by two of them. Some are conflicted because of the cases they have coming into the Troy Court and the others are just not interested. Fran McCully asked Crystal Denton if she was able to get anyone. Denton had spoke to some in Idaho but none are licensed in the state of Montana. Mayor Don Banning said that the Judge told him the court sits with \$7,400 in bonds and if we don't prosecute then the money will have to be given back to them. McCully said they were just thinking of getting a prosecuting attorney for just a month. Fisher said yes that is what we were thinking. Heather McDougall suggested that the City reconsider hiring Charles Evans to prosecute. McCully said that Evans is more than qualified and he can do the job. There are two people who have prosecuting experience who have stated they are willing to do the job. Fisher said the two are Charles Evans and Heather McDougall. Joe Arts mentioned that they forgot to talk to Jim Reintsma; he would be willing to take the job. Arts spoke with the City Judge today and the judge said that Evans would not prosecute or plead them out every time. Fisher said he would like the Judge to come to the meeting and inform council of his concerns. Fisher said there are 55 cases and only around two or three that would go to trial. The others will just come in and pay their bills. McCully said the one with the most recent experience is Evans. Fisher would like to have letters of interest and interview with a committee, an entire hiring process. Arts questions why only 30 days. Fisher said that they don't want to go into an extended contract for a temporary attorney and then end up hiring a permanent attorney, then be obligated to the temporary attorney you hired for six months. Denton stated with the three attorney being considered, McDougall, Evans, and Reintsma. Is there any conflict of interest with Reintsma since he was the attorney for you Don, or is this something that can still be an issue? Banning stated that there is no conflict at this time. McCully would like to make a comment regarding a comment the Reintsma had said to the Flathead Beacon which stated that he represents Banning and Banning as the Mayor and when all is done the fees will be charged to the City of Troy. McCully says she has a problem with that statement. First is he wasn't representing Banning as the Mayor he was representing him personally; he could not represent him as the mayor because that would had to have taken a contract with the City that the Council would had to enter into. Second the fees that will be billed to the town. Now if this was Reintsma opinion it wasn't a very good legal opinion because there wasn't a contract that involved the Council in the first place. McCully has a major problem about this. Arts stated it sounds like it was an opinion stated and it is not a written response. Discussion held on comment in the Flathead Beacon.

Denton questioned what kind of service can the two attorneys' be expected to do, what hours will they work. Fisher answered that the attorneys he spoke to he hadn't spoke about particulars and that he had just asked them what he asked everyone else; which was, would they be interested in doing the prosecution for the City of Troy court and that is all he asked. Fisher continued, Evans said he would do the work for the same amount of money that was stated in his contract which is \$60 per hour. McCully stated that she just assumed it would be

on an hourly basis she doesn't see how it could be done any other way. Fisher stated that the fee for Evans was pretty reasonable and other attorneys are pretty much a lot more, Ms. McDougall's is considerably more too, we need to do things the cheapest we can. Fisher stated that this is just for the prosecution of the court and nothing else. Mayor Banning was in agreement to that. Fisher said he couldn't see the attorney working more than two or three hours a week if that. McCully stated it is what it is, whatever hours it takes, whatever the judge needs. McDougall said that she is conflicted out until April 24th, 2012. Mayor Banning stated that since they want to hire an attorney that he will be the one to go out and interview, and will hire them as the mayor. McCully stated that we would probably need a resolution since one was done before when the judge put that one together. This will need to be passed at a special meeting. Discussion was held on when to have a meeting to pass the resolution. McCully stated that she would like to make a motion to approve Charles Evans as the temporary prosecuting attorney. Banning interrupted the motion and requested no names be mentioned. McCully asked then how does the Council vote on this. Fisher stated that in MCA 7-4-4605 it says that nothing will prevent the Council from employing additional counsel. Banning stated that they authorized the funds but not hire the person. Discussion was held on who can hire the temporary prosecuting attorney. **Motion** to hire a City Attorney on a temporary basis was made by Joe Arts, second by Crystal Denton. Opened for discussion. Denton question what would the Mayor position be on the hiring of the attorney. Banning explained that he will go out and try to find a temporary attorney who is willing to prosecute until the court gets their case load down to a manageable load. Fisher would like to have it stated that the attorney be hired for thirty days not until it gets down to a manageable load. McCully asked what will happen if we find out that the mayor's interpretation of MCA 7-4-4605 is wrong. Banning answered then you go by with what the law states. McCully stated then we have to undo again and she just wants it on the record. Banning stated the only thing that council has authorized him to do is go out and find a temporary prosecuting attorney. Steve Bowen stated that the point of this special meeting is to let the citizens of Troy know who the temporary attorney is going to be. Banning stated that they don't know who it will be until we talk to them. Bowen stated; then make the decision tonight. Banning said that the decision cannot be made tonight. McCully wanted to rephrase the comment differently to that we don't know until the Mayor decides who it is going to be and appoints them. Discussion was held on scheduling a meeting. Banning stated on to question, clarification of the motion needs to be stated for the city clerk. Denton would like for the Mayor to contact a few people and then come back with what they say and also to make sure that they know it is only a thirty day contract. **Amendment to the motion** was made by Joe Arts to have the Mayor talk with the recommended attorney of the council suggestions regarding a temporary prosecuting attorney with a thirty (30) day contract, second by Crystal Denton. Roll call vote- Phil Fisher – Yes, Crystal Denton – Yes, Joe Arts – Yes, Fran McCully – Yes. **Motion Carried.** Mayor set the next special meeting for April 2nd, 2012 Monday at 6:30 pm. Discussion was held on the attorneys to get a hold of. There were six names that were decided on.

PUBLIC COMMENTS: None.

ADJOURNMENT: Meeting adjourned at 8:02 p.m.

Donald C Banning, Mayor

ATTEST:

Tracy Rebo City Clerk/Treasurer

MN 03/29/2012