

**TOWN OF MANHATTAN**  
**Thursday, January 11, 2024**  
**Regular Meeting**  
**MINUTES**

Mayor Traig Howells called the meeting to order in the Town Meeting Room at 207 S. 6<sup>th</sup> St. at 7:00 P.M. Present were Council Members Ryan Engbretson, Betsy Mancuso, Ryan Miller, and Josh Powell. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Town Planner Scott Hazelton, Police Chief Dennis Hengel, Sergeant Owens, Officer Fisher, WRRF Lead Operator Todd Eyman, and Clerk/Treasurer Pam Humphrey. Ten members of the public were present. Two members of the public were present by Zoom.

**PUBLIC COMMENTS:**

*Kristen Swenson, 9501 Frontage Rd:* She stated that she has had a conversation with Josh Powell, and she wanted to recognize him for his efforts after the issue at the treatment plant. It was a positive experience in a challenging situation.

She stated that she has been reappointed to the Manhattan City-County Planning Board. She stated that she is the ranch manager for the Kaiser Ranch. They have done their own testing and have been in touch with DEQ and FWP. They will continue to test and monitor any ramifications concerning wildlife development and water on the ranch.

**POLICE DEPARTMENT UPDATE:**

*Dennis Hengel, Chief of Police:* He introduced the new Manhattan Police Officer Matthew Fisher. Fisher served two years on the Ennis PD. He is in his second week of the FTO program. Training time can be reduced as he is a post-certified officer.

He stated that people are using the ice rink. The hybrid patrol car is working well so far. Public Works has decommissioned the old patrol vehicle. They will be applying to the Mason Moore Foundation for a grant for another digital radio for a patrol car.

*Matthew Fisher, Police Officer:* He stated that he is happy to be in a small community.

**WRRF PROJECT UPDATE:**

*Matt McGee, TD&H:* He stated that the bids have been opened. There were three bids. All three were higher than the estimate and all were competitive. Two schedules were bid. The second one is pending approval from DEQ and the Groundwater Discharge Permit. They are looking at starting with Schedule 1 initially. The Town would be eligible for another \$750,000 of loan forgiveness for the second part. They are working on the budget for separating the schedules. Dick Anderson was the low bid. He will bring a recommendation to the Council at the February meeting. There is an additional \$120,000 from the Army Corps of Engineers that the Town may get. Schedule 1 is the treatment portion of the project and Schedule 2 is the discharge portion with the RIB.

*Glen Clements, 709 Madison:* He asked what the two schedules are.

Mayor Howells informed the Council and public that between Christmas and New Years an outside contractor dumped propylene glycol into the sewer system. It affected the plant in a negative way. Due to Todd's response, it was under control quickly.

Currently, the effluent is clean and within DEQ permitted levels. There was a meeting with the DEQ. Todd has been in contact with engineers and DEQ to decide how to deal with the issue. The plant is online and treatment is continuing. Monitoring will continue also.

*Todd Eyman, Lead Operator:* He stated that they are doing daily spot monitoring. They have increased testing and are doing what would be equivalent to quarterly testing on a weekly basis. He started skimming immediately into the digester when he noticed the problem. Over 2000 gallons came into the plant. A lot of the substance is trapped in the digester. That can be tested to see what remains in there. Some equipment was coated and will need to be replaced. The estimated cost of remediation is \$10,000 in equipment, plus man hours and additional testing. He estimated the total to be around \$50,000. He has been in contact with the contractor. DEQ was impressed with Councilman Powell's proactive approach alerting downstream neighbors. It was a very effective team effort. He described how he discovered what the problem was.

*Councilman Powell:* He commended Todd Eyman on how he handled the problem before he even knew what was happening. Putting it in the digester saved a lot of problems.

#### **COUNCIL POSITIONS:**

Motion- Powell; Second- Engbretson; Vote- Unanimous: Motion passed to appoint Betsy Mancuso as Council President.

Commissioners were assigned as follows:

Water Commissioner – Mancuso

Sewer Commissioner – Powell

Streets Commissioner – Miller

Park Commissioner - Engbretson

#### **ATTORNEY SELECTION:**

Motion- Miller; Second- Engbretson; Vote- 2-for (Engbretson, Miller), 2 –against (Powell, Mancuso). Mayor Howells voted in favor to break the tie: Motion passed to appoint Jane Mersen as Town Attorney and to allow Mayor Howells to sign the Town Attorney Contract.

An Request for Proposals was published. The Town received one proposal back from Jane Mersen.

*Jennifer Carr, 200 Lund Lane:* She stated that she submitted a complaint to the Town about Mersen's handling of a ditch issue with a developer near her property. She has been in meetings with the Mayor, Mersen, and one of the Council members where she laid out her complaints about Mersen. She stated her opinion about how Mersen has done her job. She stated that she does not agree with reappointing Jane Mersen as Town Attorney. She stated that the League of Towns and Cities will provide an attorney for the Town when necessary. She stated that if the Town reappoints Mersen as Town Attorney, she will move forward with an ethics complaint.

*Sergeant Austin Owens, 207 S 6<sup>th</sup> St:* He stated that he has known Jane for 13 years, and feels she is always professional, courteous, polite, and helpful. He stated that Mersen is the right person for the job.

*Dennis Hengel, Chief of Police:* He stated that the Manhattan Police Department receives appropriate and correct advice. He supports Mersen as Town Attorney.

*Kyle Scarr, Town Engineer:* He stated that he agreed with the officers. Mersen's professionalism in helping the engineers with advice and counsel has been good.

*Glen Clements, 709 Madison:* He stated that Jane was always very professional and had the best interest of the Town of Manhattan at heart. He encouraged the Council to retain her because of her institutional knowledge and experience.

*Mayor Howells:* He stated that Councilman Engbretson and he have reviewed Jennifer Carr's complaint, and that he had emailed the results to the Council this week. He will meet with the Carrs on Friday.

*Councilwoman Mancuso:* She stated that there may be some misconceptions about the role of the Town Attorney. She read the function of the Town Attorney. She stated that it is not the Town Attorney's job to make business decisions, run the Town, or govern the Town. The Mayor, Council, and boards are the governing body. The Council can consider the Town Attorney's advice but does not have to agree with what the attorney advises. Long term attorney appointments have advantages and disadvantages. Going forward, she recommends greater accountability with law firms that represent the Town. She talked about costs and items that the attorney is involved in. She suggested that the public must go through the Mayor before contacting the Town professionals directly.

*Councilman Powell:* He stated his opinion that the Town should not re-hire Mersen. He read the reasons behind his opinion. His reasons included protecting the agriculture community, how she has advised the Council, damage inflicted on the Carr family, plat extension advice, the abortion issue advice, lack of time for a requested meeting, growth policy advice, and reviewing interim mayor questions. He stated that he disagreed with a governance workshop that indicated that a Council should seek advice from the attorney. He stated that Jane should have given the direction to notify the surrounding landowners about the treatment plant issue. He stated that the surrounding agricultural community was more important to him than the liability of the situation. He stated that Mersen has not advised the Council to help the agriculture community. He stated that she has an issue with Mersen's body language and comments. He stated that her body language is intimidating, manipulative, and increases his personal lack of trust in her. He would like to keep searching for a new attorney. He stated that in his opinion, Mersen does not always give good or correct advice.

*Councilman Miller:* He stated that the Council is hearing all these different accusations from different people's perspectives. He stated that it is unfair that Mersen must sit and listen to it. Potentially, the way the speakers have viewed things is different than the way other people have viewed things. He stated that the attorney provides the Council with legal information, which is necessary. Having an interim or substitute attorney is not reasonable to him. He stated that he believes that Mersen has done a good job from what he has seen in the past eight months. He agrees with the attorney on her interpretation of the laws of Montana. The Town can open the position up again in the future, but not deciding now is not an option. The Town is lucky to have the people it has because they are hard to replace.

*Councilman Engbretson:* He stated that the time to research and recruit different attorneys was months ago, not now. It is too late to table this now. The Town did a

formal FRP process and did not get other proposals. Changing the process now, would not be fair.

*Mayor Howells:* He stated that the need to have an attorney available was demonstrated with the glycol issue at the plant. Mersen was available and started on the issue outside of normal working hours.

*Pam Humphrey, Clerk/Treasurer:* She stated that she has worked with Mersen for 17 years. The Town has been sued a few times during that time because the Council did not take her advice. She is the most consistent, knowledgeable professional that the Town has.

Council discussed a protocol for contacting professionals in the future.

#### **ORDINANCE NO. 24-001 – AMENDING PARKING ORDINANCE:**

##### **First Reading**

*Dennis Hengel, Chief of Police:* He stated that the process started 9 months ago. He wanted to change it to a Town Ordinance instead of following the state law. He feels it will be more enforceable.

Council discussed possible additions and changes.

The Ordinance was set for public hearing and a second reading at the February meeting.

#### **ORDINANCE NO. 24-002 – URBAN CAMPING:**

##### **First Reading**

*Scott Hazelton, Town Planner:* Campers are a different type of vehicle, so that aspect needs addressed. The Town can regulate this through time, place and manner. There are regulations and restrictions in the ordinance. Urban camping would be restricted around residential properties, schools, and daycares. There are distance restrictions from businesses and non-profits. The Planning Board reviewed the ordinance and recommended approval.

Council discussed state laws, other municipalities, definitions, involuntary homelessness, options for not having the ordinance, timing of enforcement, goal of the regulation, possible areas, and having it match the parking ordinance on timing of enforcement.

*Dennis Hengel, Chief of Police:* He stated that it gives a structure and the ability to enforce an ordinance. He is in favor of the ordinance.

The Ordinance was set for public hearing and a second reading at the February meeting.

#### **RESOLUTION NO. 24-001 – SEWER POLICY:**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to approve Resolution No. 24-001, a resolution of the Town Council of the Town of Manhattan, Montana adopting policy #22- Sewer Capacity Policy.

*Scott Hazelton, Town Planner:* He stated that there have been applications for ADU's that want capacity. He, the building official, Mayor, and the engineer came up with a standard flow for a residential lot. It is based on a 5-bedroom house. He explained how they made the calculations and the data used.

**RESOLUTION NO. 24-002 – ACCESSORY DWELLING UNITS - DISCUSSION:**

*Scott Hazelton, Town Planner:* He gave an update of the state legislature's ADU law. The new law allows an ADU on any lot that has a single-family home. It must only meet setbacks, minimum heights, and lot coverage of the zone. No impact fees or parking would be required. A lawsuit has been filed against this law. An injunction has been granted, so the law is on hold for now.

The Town will wait to see if a resolution is necessary when the lawsuit is settled.

**RESOLUTION NO. 24-003 – COMMIT TO MATCH FUNDS FOR PLANNING GRANT:**

Motion- Engbretson; Second- Mancuso; Vote- Unanimous: Motion passed to approve Resolution No. 24-003, a resolution of the Town Council of the Town of Manhattan, Montana authorizing the submission of an MCEP Planning Grant Application.

*Kyle Scarr, TD&H:* He stated that his firm was awarded the PER on the water distribution system. This is a grant application to help pay for the PER.

**GROWTH POLICY ENGAGEMENT:**

*Scott Hazelton, Town Planner:* He stated that they are wrapping up the jurisdictional planning area section of the Growth Policy. He invited the Council and public to the February Planning Board meeting on the 21<sup>st</sup> for an open house presentation. He will have a draft in March to the Planning Board, then it will go to the Council.

Council discussed suggestions for spreading the word – school board meetings, bank sign, etc.

**PLANNER'S UPDATE:**

*Scott Hazelton, Town Planner:* He stated that he should know about the CDBG Planning Grant for the zoning and subdivision regulations update. A Zoning Permit and review is coming up. MLCT head has offered to do a legislative changes training on February 15<sup>th</sup> or 22<sup>nd</sup> at 6 pm for Council and Planning Board.

**PARK COMMISSIONER'S REPORT:**

*Councilman Engbretson:* The skating rink is filled and operational at this time. They have been resurfacing a lot. It is a hit.

**MAYOR'S REPORT:**

- Council meeting on 8<sup>th</sup>, Powell will be absent.
- Jan 26<sup>th</sup> 4-10 pm, the Police Department will be doing a training exercise at elementary school with lights & sirens.
- He recognized the volunteer fire department, named them all, and gave stats for 2023. There were 372 total calls, of which 206 were in Town and 166 were in the Rural District. The department has many hours of training for medical and fire. They are actively pursuing volunteers.

**CONSENT AGENDA:**

Motion- Powell; Second- Engbretson; Vote- Unanimous: Motion passed to approve the Consent Agenda.

**Town Licenses:** Door Guys LLC, and Covenant Cleaning and Electrical Services LLC

**Approval of Minutes:** Regular Meeting minutes from December 21, 2023.

**Claims:** Dated 12/22/23 – 01/11/24 totaling \$204,900.71.

**ADJOURN:**

Motion-Mancuso; Second-Powell; Vote- Unanimous: Motion passed to adjourn the meeting.

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Mayor

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Clerk/Treasurer