

**TOWN OF MANHATTAN  
Regular Meeting  
January 13, 2022  
MINUTES**

Mayor Glen Clements 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, Callie Hamilton, Betsy Mancuso, and Josh Powell. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Police Chief Dennis Hengel, Deputy Clerk/Treasurer Tonya Owens, and Clerk/Treasurer Pam Humphrey. Fourteen members of the public were present. One member of the public was present via Zoom.

**PUBLIC COMMENTS**

*Antonette Lininger, renter at 502 E Main St:* She stated that she is the CEO and co-founder of Sacred Sun Farms, a medical marijuana business. She stated that she is here to start a face-to-face relationship with the community of Manhattan. She gave an overview of her business. They have three locations in MT, one in Wolf Point, one in Glendive, and one in Four Corners. They like working in small communities. She would like to have a further dialog with the community of Manhattan to further their relationship.

**CONDITIONAL USE PERMIT – DAYCARE CENTER AT 115 E GALLATIN AVE:**

Clerk read public hearing notice.

**Public Hearing**

*Dianne Click, 10 Park Plaza, Bozeman:* She stated that daycare use is not a primary use in any zoning. It is only an accessory use in residential.

**Discussion/Decision**

Motion- Mancuso; Second- Hamilton; Vote- Unanimous: Motion passed to approve the Conditional Use Permit for a Daycare Center at 115 E Gallatin Ave.

Council discussed the lack of childcare in the community and that there needs to be more available. Council thought that the information provided was thorough.

**MONTANA POLICE PROTECTIVE ASSOCIATION – DAN SMITH:**

*Dennis Hengel, Chief of Police:* He relayed the difficulties that they have with hiring quality applicants. The police department is on PERS, which is a 30-year retirement, MPORS is a 20-year retirement. Seven officers have left the Manhattan PD, for various reasons. He introduced Dan Smith with the Montana Police Protective Association.

*Dan Smith, MPPA:* He described his history in police service. He runs the Montana Police Protective Association, which has several members across the state. The 20-year retirement system has been a hiring advantage for some departments. He gave some examples of how the retirement system could benefit the police officers. He gave some information about what the MPPA does for the officers and presented a handout with additional information. There is also a cost to join MPPA out of the officers' salary. Existing officers are not required to change over from PERS to MPORS.

Council discussion included clarification on what MPORS would cost the Town vs PERS.

The Town would possibly be required to change from a Town to a City, which could cost the Town even more. Mayor Clements asked Chief Hengel to investigate this requirement.

Council discussed reviewing and looking at this item in the wage review committee.

**MUSEUM BOARD PRESENTATION:**

*Patty Hebner, Museum Board:* She and Dave Hebner have been active members of the board for many years. They are stepping down from some of their duties at the Museum. She stated that the Museum has the history of the Town. They feel that it is important to keep the Museum alive in the Town. She stated that history can bring the community together. They are asking the Town to take some ownership of the Museum, along with the Historical Society to make sure the bills are paid. They would like the Town to take over the financial part of the Museum. They would continue to do fundraising and grant applications. They do programs in the Museum with the school. Angela Pitch will be the new curator.

*Sharol Ruf, Museum Board President:* She has been involved with the Museum for approximately eight years. It is only open in the summer for two days a week. She is also on call to show people the Museum when they are not open. They need more young people to volunteer and a social media presence.

*Dave Hebner, Museum Board member:* He gave a report of the finances of the Museum. Currently they have assets of \$3000 in bank and \$1000. Also, the building and inventory are considered assets. Expenses are approximately \$1500/year. Insurance is \$825 yearly. Gas and electricity vary throughout the year. Income is primarily from donations and memberships. They also sell books. The income does not keep up with the expenses. They would like to partner with the Town to keep the Museum going.

Council discussion included the history of the ownership of the building and possible scenarios for joint ownership.

**COUNCIL APPOINTMENTS:**

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

Motion- Hamilton; Second- Mancuso; Vote- Unanimous: Motion passed to appoint Betsy Mancuso as Water Commissioner, Josh Powell as Sewer Commissioner, Callie Hamilton as Streets Commissioner, and Ryan Engbretson as Parks Commissioner.

**ARPA PLANNING GRANT FOR PER FOR WATER MAIN REHABILITATION:**

Motion- Engbretson; Second- Powell; Vote- Unanimous: Motion passed to have the Mayor sign the Grant Contract for the ARPA Planning Grant for a PER for Water Main Rehabilitation.

**WRRF PROJECT UPDATE:**

*Matt McGee, TD&H Engineering:* He updated the Council regarding the preliminary design and progress with the project. They are making progress with the permitting group. Geotechnical work could be done in March or April. The funding group is

meeting regularly. They are updating information regarding the contribution from Amsterdam/Churchill. AE2S is doing updates to capacity information. They have weekly meetings with Glen and Robert. They have presented a proposal for an amendment to procure a screw press ahead of the rest of the project.

Mayor Clements stated that the plant personnel have asked the engineer to do the screw press amendment as a change order to get it done in advance to get ahead of supply chain issues. He described what the screw press does in processing the solids.

#### **MANHATTAN WETLAND ARPA APPLICATION:**

Motion- Hamilton; Second- Engbretson; Vote- Unanimous: Motion passed to authorize the Mayor to sign the Manhattan Wetland ARPA Application and commit \$100,000 to the project.

*Mace Mangold, WGM Engineer:* He had some letters of support for the project that will go with the ARPA application. Bob Kaiser is the landowner. He is proposing a wetlands restoration project. The project is in the area from Pioneer Crossing to the Gallatin River. This project could help the Town in relation to the surface water discharging permit. It would possibly help remove nitrogen and other nutrients that are required to be removed by the DEQ and the groundwater discharge permit. The landowner, as well as two nearby developers have pledged certain amounts of money to the project. The plant upgrade still has some unknowns regarding if it will meet the new DEQ permit regulations. This project helps to address some of the unknowns. Nitrogen is the challenge with the current processes. The land restoration project will move forward regardless of the ARPA application. The reason for the ARPA application is to be able to do more in relation to nitrogen removal. The landowner goal is primarily waterfowl habitat and stream restoration. Effluent from the plant is discharged into the Dita Ditch, which then travels into Kaiser's property through the proposed project area. This project could knock out up to 70% of the nitrogen. They could use 20 acres of wetland to decrease the nitrogen vs a mechanical plant. Most of the project will happen regardless of ARPA funding. There is no mechanical treatment and really no maintenance. The area is a conservation easement. He handed out some cost estimates. They need up to a 50% match to get maximum points for ARPA scoring. They are asking the Town to commit \$100,000 to the project.

Mayor Clements pointed out that this proposal could increase the capacity along with the current upgrades to the plant.

*Bill Luehrs, Pioneer Crossing:* He encouraged the Council to step up and pay a portion of the cost.

Council, Town Engineer and Town Attorney discussed how this would be affected if the landowner pulls out and sells or changes use. They agreed that the project would be a benefit to the Town as presented. It could also increase capacity and decrease the cost of future upgrades. They discussed that the project is important, and the Town would need to make sure that the funds are available. The amount could be budgeted into the next fiscal year.

**RATE AND IMPACT FEE STUDY:**

Council discussed the proposal from AE2S to do a rate and impact fee study. Mayor Clements directed the Clerk/Treasurer to contact the firm representative and get more detailed information as well as get the cost for them doing the entire impact fee study. The item will be placed on the next meeting agenda.

**BOARD APPOINTMENTS:**

Motion- Hamilton; Second- Mancuso; Vote- Unanimous: Motion passed to approve the Mayoral appointment of Erik Christiansen to the Park Board for a four-year term.

Motion- Engbretson; Second- Hamilton; Vote- Unanimous: Motion passed to appoint Craig Christensen to the Planning Board for a two-year term.

**MAYOR'S REPORT:**

None

**CONSENT AGENDA:**

Motion- Hamilton; Second- Mancuso; Vote- Unanimous: Motion passed to approve the Consent Agenda.

**Kennel Licenses:** Bob Uhrich – renewal at 710 Jefferson and Neal & Cindy Dykstra at 303 Spaulding.

**Chicken Coop License:** Taylor McDowell – renewal at 312 N 5<sup>th</sup> St

**Town Licenses:** PJ's Plumbing and Heating, Werm of Montana, P. Adams Pet Care, Tailored and Tied LLC, and Ryan LaFoley Private Chef Inc.

**Approval of Minutes:** Regular Meeting minutes from December 8, 2021.


**Claims:** Dated 12/09/21 – 01/13/22 totaling \$ 468,918.68.

**ADJOURN:**

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



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Mayor



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Clerk/Treasurer

**TOWN OF MANHATTAN  
Regular Meeting  
February 10, 2022  
MINUTES**

Mayor Glen Clements 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, and Josh Powell. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Town Planner Randy Carpenter, Police Chief Dennis Hengel, Deputy Clerk/Treasurer Tonya Owens, and Clerk/Treasurer Pam Humphrey. Nineteen members of the public were present. Four members of the public were present via Zoom.

**PUBLIC COMMENTS:**

*Alissa Farley, 205 S 5<sup>th</sup> St:* She stated that she wanted to express her interest in an automatic e-mailer to remind the public of upcoming meetings and other information.

**CONDITIONAL USE ZONING ORDINANCE TEXT AMENDMENT:**

Clerk read public hearing notice.

**Public Hearing**

*Sherine Blackford, Attorney for Manhattan Jackpot:* She stated that this request has been submitted to the Planning board and recommended for denial. She asked the Council to review the zoning map, and notice that casinos are precluded from being in most of the Central Business District. There are locations in the CBD that are grandfathered. She gave a history of Manhattan Depot's project in Manhattan. They are requesting an amendment for businesses to come in to be a part of the community. The amendment would lift the restriction on residential and park proximity and kept school and church proximity.

*Kathy Bushnell, Owner of Manhattan Jackpot:* She noted the business and tax revenue that the business would bring in. They want to provide a social setting that is not a bar or restaurant. She reminded the community of the tax revenue and other businesses would benefit from the casino's presence. She stated that this change does not allow for casinos to start coming in as gambling and liquor licenses are very hard to obtain.

*Richard Kasey Harte, developer that builds for Jackpot Casinos:* He stated that when they purchased the land on Main Street, they got approval for a casino there. The cost of building was deemed to be too high because they could not build over the existing sewer main on the lot. They then bought building at 110 S Broadway. This building was also in the CBD. They did not know about the ordinance that limits casinos. He asked why they are not grandfathered in at the new location as they were at the lot on Main Street. The current bars and restaurants are across from a park that he does not think is a park because the Town leases the area from the railroad. They want to put in a restaurant and casino at the spot they are now at.

*Randy Carpenter, Town Planner:* He read the staff report. He reminded the Council that they must consider the MCA criteria for zoning regulations. He then went through the 12 criteria from the MCA and answered whether the amendment met the criteria. He gave

a background of the project. He instructed that the Council should articulate if they believe that the restrictions on casinos when in close proximity to residential areas, parks, and school and churches should be amended. The Council must make findings of fact to support its decision either for or against the requested zoning text amendment.

*Daniell Runia, Employee of Jackpot Casinos:* She stated that she has worked for Jackpot Casinos for over 19 years. She has lived in the area for over 10 years. She has a lot of customers from Manhattan, and that she would like to work here. She gave examples of what working for Jackpot Casinos has done for her family. She would like the Manhattan people to be able to have a casino in their Town.

*Jennifer Smith, daughter of Kathy Bushnell:* She stated that Jackpot Casinos is a family business. She has been able to work for the business and can also homeschool her children. It is not a negative impact business. Long lasting family relationships are important to them. She asked the Council to take into consideration the positive impact it can have on the community.

*Christy Hughes, Realtor in the Gallatin Valley and employed by Jackpot Casinos:* She stated that as communities are growing, we need to accept growth through expansion of opportunities to communities. She asked the Council to consider what the Jackpot family can bring to the community. They will bring healthy and positive note through different entertainment and opportunities to the community. She stated that she hoped the Council would consider different opportunities other than it just being called a casino.

*Stacy Sills, Employee of Jackpot Casinos:* She stated that her kids go to Manhattan schools. She stated that her and her husband do not like to go to bars, but they would like to go somewhere close to have a bite to eat and play a machine. She would like to work closer to home. She would like the Council to consider this option.

*Dennis Hengel, Chief of Police:* He asked what the capacity of the casino and restaurant is. He stated that street parking is limited. There are parking spots around the building. He asked how much parking is available related to the number of people they think will be in the Casino at one time.

- *Kathy Bushnell:* She stated that there is a maximum of 20 machines per license. Normally there would be less people in the casino than in a bar. The State requires 12 additional seats available for people to sit that are not at a machine.

Written Comments:

*Eleanor Mest, 317 S Broadway:* Opposed

*Mark Langehough, 603 E Washington:* In favor

*Tom Langel, Amerimont:* In favor

*Michael Libster, 11 W Main, Ste 223, Belgrade:* In favor

### **Discussion/Decision**

Motion- Mancuso; Second- Engbretson; Vote- 2 for (Mancuso, Engbretson), 1 against (Powell): Motion passed to accept the conditional use zoning ordinance text amendment as it meets all the twelve criteria set out for zoning regulations by Montana Code Annotated.

*Councilwoman Mancuso:* She stated that she did not see that the Planning Board provided concrete reasons to deny the proposal. She agrees that the applicant has met

the requirements of the criteria for a change. She asked what conditions can be put on the permit.

*Jane Mersen, Town Attorney:* She stated that the Town has limits for signage, parking, and zoning regulations, but not number of machines. They would need to meet restriction of 250 ft from church or school, but not parks and residential districts. In the decision, it needs to be made based on facts, not opinions. Findings must be stated in decision.

*Councilman Engbretson:* He asked about the long-term implications of changing the text.

Council reviewed the points in the staff report that the Council needs to examine and found that the amendment meets all the criteria of Montana Code.

The ordinance will be set for First Reading at the March meeting, Public Hearing and Second Reading at the April meeting and it will be effective 30 days after the April meeting.

#### **POLICE DEPARTMENT UPDATE:**

*Dennis Hengel, Chief of Police:* He stated that he came on in chief in 2009. Staffing has been the largest challenge in his time as Chief. He gave a history of the current officers and their positions. They are currently going through the hiring process for one more officer who is going through the background investigation and psychological evaluation. He stated that Sergeant Hamilton is running for a seat as a State Representative. If he is successful, Hengel would assume that Sergeant Hamilton will need to take the time off during sessions. Town Policy allows for 180 days leave as an elected official. Hengel had been planning to retire this June. He stated that he is going to delay his retirement date until after the election. This is to provide continuity in the Police Department. He thanked the Council for their support.

#### **REGIONAL HOUSING STUDY – RANDY CARPENTER:**

*Randy Carpenter, Town Planner:* He presented a study done by One Valley Community Foundation and Future West. Housing is a regional challenge. He presented an overview of the situation as well as some of the identified solutions. He explained that the demand for housing is higher than the housing supply which is increasing prices. Wages are not keeping up with housing prices. Subsidized housing is very limited as well. He explained that this issue can be remedied through a variety of strategies including accessory dwelling units and multi-family housing.

#### **RESOLUTION NO. 22-001 – BUILDING CODES:**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to adopt Resolution No. 22-001, a resolution of the Town Council of the Town of Manhattan to adopt the 2018 Uniform Plumbing Code and the 2017 National Electrical Code.

#### **RESOLUTION NO. 22-002 - PUTTING A PROPOSED ORDINANCE FOR PROHIBITING MARIJUANA BUSINESSES TO A VOTE OF THE PEOPLE:**

Motion- Engbretson; Second- Powell; Vote- Unanimous: Motion passed to adopt Resolution No. 20-002, as resolution of the Town Council of the Town of Manhattan,

Montana, referring a proposed ordinance to prohibit all marijuana businesses from opening or operating within the Town to a vote of the people at an election to be held on November 8, 2022. The types of marijuana businesses to be prohibited are adult use dispensary, manufacturer, cultivator, testing labs, medical marijuana dispensary and transporter facilities.

**WRRF PROJECT UPDATE:**

*Kyle Scarr, Town Engineer:* He gave an update on the progress of different aspects of the project. They have started working on a cost share with Amsterdam/Churchill and their obligation to the project as outlined in the Interlocal Agreement. They have been working with plant employees to go out to bid early for the screw press, polymer skid and integrated grid for sludge equipment. Current material shortages are driving this early bid. They are working with updating loads and flow calculations related to the increased efficiency in processing at the plant. They are overall on schedule for the project.

**WRRF PREPROCUREMENT AMENDMENT:**

Motion- Mancuso; Second- Engbretson; Vote- Unanimous: Motion passed to approve the WRRF pre-procurement amendment.

**RATE AND IMPACT FEE STUDY:**

Motion- Engbretson; Second- Mancuso; Vote- Unanimous: Motion passed to approve the AE2S \$11,500 rate fee study and the impact fee study of \$38,650 conditional on the Town Attorney's amendments to the terms and conditions.

Council discussed the need for a new study done soon. They discussed how to pay for it.

*Bill Leurhs, 220 Pioneer Crossing Blvd:* He stated that the old study needs to be updated. He suggested doing the new study and using it as the model to check every two years.

**DISH LEASE:**

Motion- Engbretson; Second- Powell; Vote- 2 for (Engbretson, Powell), 1 against (Mancuso): Motion passed to table the item and direct the Town Attorney to continue with the recommended changes.

Some edits were made to the lease agreement by the Town Attorney, Councilwoman Mancuso, and Mayor Clements. Dish sent back their comments on the changes. Jane Mersen reviewed the edits made by the Town committee. She mediated options to the Council for the terms being negotiated.

*Jared, Dish Network:* They agree on most of the items. They may want to have their attorney work with Mersen to clarify the language in the agreement. He went over the portions of the proposed agreement that they would have an issue with and why they would not agree to some of the terms. He explained how they need to do things, what their plans are on this tower, and gave some information about their other leases in Montana. Every cell tower in the country will be upgraded to 5G. The FCC and FAA will come to an agreement to mitigate issues with the equipment on aircraft.



Council discussed the lease conditions, including lease amount, terms of lease, and other negotiation options.

*Jordan Gipe, 311 N 6<sup>th</sup>*: he owns a helicopter company in Bozeman and Missoula. They are governed by the FAA. The FAA has issued an regarding 5G towers and how they may interfere with the equipment in aircrafts. EMS helicopters could have interference. He suggested reaching out to the airport to get information regarding interference with aircraft.

*Joe Mancuso, 113 N 4<sup>th</sup>*: He asked if the lease amount sets a precedent for other carriers that come in and want to lease space on the tower. He would like the Council to make the best deal for the Town.

Council directed Attorney Mersen to make the changes and talk with the Dish Attorney about some of the language in the agreement.

**BOARD APPOINTMENT:**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to approve the Mayoral appointment of Lindsay Schack to the Planning Board for a two-year term.

**MAYOR'S REPORT:**

None

**CONSENT AGENDA:**

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

**Kennel Licenses:** Morgan & Shawna Taylor, 106 N 2<sup>nd</sup> St.


**Town Licenses:** Stillwater Painting, DML Human Resources Consulting LLC, and Gary Snyder Fine Art MT.

**Approval of Minutes:** Regular Meeting minutes from January 13, 2022.

**Claims:** Dated 01/14/22 – 02/10/22 totaling \$ 357,275.99.

**ADJOURN:**

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



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Mayor



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Clerk/Treasurer

**TOWN OF MANHATTAN  
Regular Meeting  
March 10, 2022  
MINUTES**

Mayor Glen Clements 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, Callie Hamilton, Betsy Mancuso, and Josh Powell. Also present were Police Chief Dennis Hengel, Sergeant Austin Owens, Sergeant Rocky Hamilton, Deputy Clerk/Treasurer Tonya Owens, and Clerk/Treasurer Pam Humphrey. Six members of the public were present. One member of the public was present via Zoom. Also present by Zoom were Town Attorney Jane Mersen and Town Engineer Kyle Scarr.

**PUBLIC COMMENTS:**

*Sergeant Rocky Hamilton:* He stated that the Family Outreach person with the Sheriff's Department wants to put some pinwheels in Town for Child Abuse Prevention Awareness next month. The pinwheels could be along Broadway or Railroad Park. He wanted the Council's input on if it was okay to do that. They could all be involved if they would like.

**SWEAR IN POLICE OFFICER:**

Mayor Clements swore in new officer Autumn Ellingson. The Oath of Office was signed.

**ORDINANCE NO. 22-001: AMEND CASINO RESTRICTIONS IN CONDITIONAL USE PERMIT SECTION OF MANHATTAN CODE:**

**First Reading**

Motion- Hamilton; Second- Engbretson; Vote- Unanimous: Motion passed to approve the first reading and set the second reading and public hearing for the April 14 meeting. Council discussed the approval criteria and the wording of the ordinance.

**DISH LEASE:**

Motion- Mancuso, Second- Powell: Vote – 2 Aye (Mancuso, Powell) - 2 Nay (Hamilton, Engbretson), Mayor votes Nay. Motion failed to discontinue the lease negotiations with Dish.

Motion – Hamilton, Second- Engbretson: Vote – 2 Aye (Hamilton, Engbretson) – 2 Nay (Mancuso, Powell), Mayor votes Aye. Motion passed to table the discussion until the next meeting.

*Jane Mersen, Town Attorney:* She stated that she made the revisions and sent it to Dish Network. It has been sent back and forth a few times. She has not heard back from the legal team at Dish network. They agreed to the lease amount and the length of the lease. She recommended tabling the item until the April meeting.

*Councilman Powell:* He state that after the last meeting, he doesn't think that entering into a contract will be in the best interest of the Town. In the few conversations that the Council has had with Dish, he does not feel that Dish is able to compromise. Our water

tower is unique in the fact that it can be added on to. He thinks it will cause unnecessary challenges to the Town.

*Councilwoman Mancuso:* She stated that she feels that they compromised too much for this agreement.

**WRRF PREPROCUREMENT CONTRACT AND PROJECT UPDATE:**

*Matt McGee, TD&H:* He updated the Council on the progress of the WRRF project. A site plan is being worked on to finish the design. The pre-procurement of the equipment was approved by the Council at the last meeting. That is on schedule, AE2S is preparing the bid document to be advertised for bid on March 21<sup>st</sup>. Bids will be open in April. They are working on estimated costs for the equipment packages. The screw press for dewatering may be able to be placed in the original building instead of in a new building. The original control building has a space designed to house dewatering equipment. They are doing a study to see if it is feasible, both code and cost wise, to put the dewatering facility in the existing space. The Rapid Infiltration Basins (RIBS) are in the process of design. This is for the groundwater discharge strategy and improvements. They are working on discussions with Amsterdam/Churchill regarding an overall cost share. The Town has been awarded \$940,000 from WRDA and \$375,000 in loan forgiveness. This will drop the SRF loan from around 52% to just above 40% of the total cost.

They are working on a draft groundwater discharge permit. Their surface water discharge permit is also in limbo right now. The DEQ has been unable to give clear direction. The Town has sent a letter with design intentions and received comment that it was received and that it was acceptable.

Mayor Clements added that there is potential for \$600,000 in grants from the Bureau of Reclamation.

**MAYOR'S REPORT:**

- Ballot issue regarding marijuana businesses has been approved. The Town Attorney is also working on a ballot issue de-annexing Yadon Road as there is no development going on out there, but the Town has to maintain it right now.

**CONSENT AGENDA:**

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

**Chicken Coop Licenses:** Falon Albertson at 111 N 2<sup>nd</sup> St, Joseph Mancuso at 113 N 4<sup>th</sup> St, and Shirley VanDyken at 203 Cottonwood.

**Town Licenses:** Accurate Plumbing & Heating, Design House LLC, Interia LLC, and Advanced Isotopes of Montana.

**Approval of Minutes:** Regular Meeting minutes from February 10, 2022.

**Claims:** Dated 02/11/22 – 03/10/22 totaling \$ 195,436.71.

**ADJOURN:**

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



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Mayor



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Clerk/Treasurer

**TOWN OF MANHATTAN  
Special Meeting  
March 22, 2022  
MINUTES**

Mayor Glen Clements called the meeting to order in the Town Meeting Room at 207 S. 6<sup>th</sup> St. at 9:30 A.M. Present were Council Members Ryan Engbretson, Callie Hamilton, Betsy Mancuso, and Josh Powell. Also present were Town Attorney Jane Mersen, Clerk/Treasure Pam Humphrey and two Town employees.

**PUBLIC COMMENTS:**

None

**EXECUTIVE SESSION - PERSONNEL:**


Mayor Clements stated that the right of privacy of an individual clearly exceeds the right of the public to know and to participate in the public's business. He closed the public meeting.

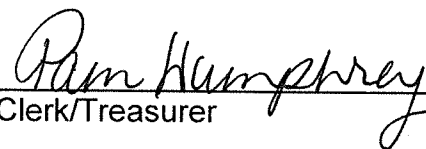
After the executive session, the Mayor re-opened the public meeting.

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to accept Mayor Clements' recommendation in his March 8<sup>th</sup> letter to Sergeant Hamilton.

**ADJOURN:**

Motion- Hamilton; Second- Mancuso; Vote- Unanimous (Hamilton abstained): Motion passed to adjourn the meeting.

  
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Mayor

  
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Clerk/Treasurer

**TOWN OF MANHATTAN  
Regular Meeting  
April 14, 2022  
MINUTES**

Mayor Glen Clements 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, and Josh Powell. Also present were Town Engineer Kyle Scarr, Public Works Supervisor Jeff McAllister, Police Chief Dennis Hengel, Sergeant Austin Owens, Deputy Clerk/Treasurer Tonya Owens, and Clerk/Treasurer Pam Humphrey. Eleven members of the public were present. One member of the public was present via Zoom.

**PUBLIC COMMENTS:**

None

**COUNCIL APPOINTMENT:**

Motion- Powell; Second- Mancuso; Vote- 2 for (Powell, Mancuso), 1 against (Engbretson): Motion passed to appoint Morgan Taylor as Council person to fill the remaining term of Callie Hamilton.

Mayor Clements administered the Oath of Office.

There were two applicants for the Council position, Morgan Taylor, and Ben Broyles. They introduced themselves to the Council.

**BOARD OF ADJUSTMENT:**

Motion- Mancuso; Second- Powell: Vote- Unanimous, Taylor Recused himself: Motion passed to approve the Mayoral appointment of Shawna Taylor to the Board of Adjustment for a three-year term.

**NORPLEX DONATION TO POLICE DEPARTMENT:**

Chief Hengel notified the Council that the Police Department has received a \$2000 donation from Norplex Advanced Composites. He will send a certificate of appreciation to Norplex.

He also updated the council that they are eligible for a grant for body cameras. They will re-apply for the grant.

He stated that the new officer resigned after one week in the FTO program. They will start the hiring process again.

He relayed to the Council some feedback that the department has gotten about the officers.

**PLANNING BOARD UPDATE-LIGHT INDUSTRIAL DISTRICT CHANGES:**

*Tonya Owens, Deputy Clerk/Treasurer:* She gave the Council an update on changes that are projected to the Light Industrial District. The Town Attorney and Town Planner met with the Planning Board regarding the changes. The code is restrictive as it is now. There are a lot of new businesses that want to come into the Farmstead and some of the

ones there now do not fit the code. She gave some examples of the non-conforming businesses that are there and want to come in

*Sophie Duffin, prospective business owner:* She stated that she is trying to open a coffee hut and bakery in the Farmstead. She submitted a business license application. If the changes are approved, she will not have to apply for a variance. She would like to open in the summer.

The Council and audience members discussed the timing of the changes and possible needs for variance applications.

**WRRF PROJECT UPDATE:**

*Kyle Scarr, Town Engineer:* He stated that they submitted the 30% design to the Town recently. Next week they are planning a workshop with the treatment plant. They will be finalizing the cost share agreement with Amsterdam/Churchill.

The equipment pre-procurement bids are to be opened on April 21<sup>st</sup>. A decision will be made at the next Council meeting.

**ENGINEERING CONTRACT EXTENSION – THOMAS, DEAN & HOSKINS:**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to table the contract extension for Town Engineer with Thomas, Dean & Hoskins.

*Kyle Scarr, Town Engineer:* He stated that the original contract with the Town started in 2004, it is open for renewal every two years. He would like to continue providing services to the town. The rates will be held for the term of the contract.

*Councilwoman Mancuso:* She clarified some parts of the original contract that have not been updated since the original. She asked Kyle to clarify some language in the original regarding final design phase of projects. She would like to see it updated if needed because it is 18 years old. She also asked if the insurance amounts needed to be updated.

Scarr will check with the Town Attorney to see what can be updated and still extend the original contract.

**ORDINANCE NO. 22-001: AMEND CASINO RESTRICTIONS IN CONDITIONAL USE PERMIT SECTION OF MANHATTAN CODE – Second Reading:**

Clerk read public hearing notice.

**Public Hearing**

None

**Discussion/Decision**

Motion- Engbretson; Second- Mancuso; Vote- Unanimous: Motion passed to approve Ordinance No. 22-001, an ordinance of the Town Council of the Town of Manhattan amending the Manhattan Municipal Code to revise Section 10-11-9 to take out restrictions as to distance between casinos and parks, recreations, and residential areas.

**ZOOM MEETINGS:**

Motion- Engbretson; Second- Mancuso; Vote- Unanimous: Motion passed to offer Zoom audio meetings by invitation only at board meetings.

Council discussed the use of zoom meetings. They discussed keeping the subscription and inviting attendees that want to come in that way.

*Alissa Farley, 205 S 5<sup>th</sup>*: She stated that the numbers may not be reflective because the audio is very poor. She added that it would be good to use it for sick or out of town board members.

**MAYOR'S REPORT:**

- Police had a staff meeting to discuss ways to get more applicants for police positions.
- Wage committee is meeting and looking at wages for all town employees and a new matrix for wages and advancement. He will be presenting it to the department heads and bringing to next council meeting.

**CONSENT AGENDA:**

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

**Town Licenses:** Diagh's Diesel & Auto Repair, The Porch at Nogans, Sophie's, BBs Contracting, and Jerde's Construction.

**Approval of Minutes:** Regular Meeting minutes from March 10, 2022, Special Meeting minutes from March 22, 2022, and Executive Meeting minutes from March 22, 2022.

**Claims:** Dated 03/11/22 – 04/14/22 totaling \$ 261,178.66.

**ADJOURN:**

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

  
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Mayor

  
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Clerk/Treasurer



**TOWN OF MANHATTAN  
Special Meeting  
April 21, 2022  
MINUTES**

Mayor Glen Clements 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, Josh Powell, and Morgan Taylor. Also present were Sergeant Rocky Hamilton, Town Attorney, Jane Mersen and Clerk/Treasurer Pam Humphrey. No members of the public were present.

**PUBLIC COMMENTS:**

*Rocky Hamilton, Manhattan Police:* He stated that he was disappointed in the decision at the last meeting. He expressed his concerns about the investigation of the issues as he sees it.

**EXECUTIVE SESSION- PERSONNEL:**

Mayor Clements state that the right of privacy of an individual clearly exceeds the right of the public to know and to participate in the public's business. He closed the public meeting.

After the executive session, the Mayor re-opened the public meeting.

Motion- Powell; Second- Engbretson: Vote- Unanimous: Motion passed to allow the Mayor to sign the letter that the investigation concluded that the Letter of No Confidence was unsubstantiated and therefore, the Town will take no further action related to the Letter.

**ADJOURN:**

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

  
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Mayor

  
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Clerk/Treasurer

**TOWN OF MANHATTAN  
Regular Meeting  
May 12, 2022  
MINUTES**

Mayor Glen Clements 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, Josh Powell, and Morgan Taylor. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, and Clerk/Treasurer Pam Humphrey. Twelve members of the public were present. Public Works Supervisor Jeff McAllister and one member of the public were present via Zoom.

**PUBLIC COMMENTS:**

*Callie Hamilton, 505 Milwaukee:* She gave a Steering Committee update. The proposed Growth Policy will go to the Planning Board in the next couple of months. She encouraged everyone to attend those meetings and learn more about the proposed Growth Policy.

*Lindsay Schack, 302 N Broadway:* She is the Steering Committee Chair and Planning Board Vice President. She also asked the Council to attend their meetings and ask questions and get to know the document. They have put a lot of work into it. She encouraged the Council and public to engage early and get questions answered to keep the process moving.

**ZONING CHANGE:**

Clerk read the public hearing notice.

**Public Hearing**

None

**Discussion/Decision**

Motion- Mancuso; Second- Engbretson; Vote- Unanimous: Motion passed to approve the application for zoning change of 248 Manhattan South Rd from R-1 Low Density Residential District to L-1 Light Industrial District.

*Councilwoman Mancuso:* She clarified the location of the property.

*Councilman Powell:* He asked about sewer and water issues. He asked about the road and getting an approach permit with the state highway. He stated that it is a great location for that type of business.

*Kyle Scarr, Town Engineer:* He stated that it is an existing lot within city limits. They are not subdividing. They do not need a capacity letter for additional flow. They would be able to hook up.

*Mayor Clements:* He clarified that the zone change does not approve any of their plans. The company makes campers and makes the robotics that make the campers.

**MILLEN BOUNDARY RELOCATION- 314 N BROADWAY:**

Motion- Powell; Second- Taylor; Vote- Unanimous: Motion passed to approve the boundary relocation at 314 N Broadway.

*Max Millin, 314 N Broadway:* They are going from 2.5 to 2 lots for easier development in the future.

**PARTY WALL AGREEMENT:**

Motion- Engbretson; Second- Powell; Vote- Unanimous: Motion passed to authorize the Mayor to sign the Party Wall Agreement with Petrick Rentals, LLC.

*Mayor Clements:* He stated that there is a shared wall between the L&F and the Senior Center, which the Town owns.

*Jane Mersen, Town Attorney:* She stated that the potential buyers need this agreement to satisfy the title conditions.

*Abigail St Lawrence, attorney for Petricks:* She stated that they are selling the property as a grocery store. This is part of the sale process, one of the exceptions in the contract was the shared wall. The buyers did list this as an objection to the title. They are also pursuing the Museum with the same type of agreement. This is just a piece of clarity that the buyers would like. There has never been a problem in the past with the shared wall.

**SWAN ANNEXATION:**

Motion- Mancuso; Second- Taylor; Vote- Unanimous: Motion passed to accept the Swan Annexation application.

*Mike Swan, 1240 Yadon Rd:* There is approximately ten acres adjacent to his current property that he would like to buy. His plan is to maintain it as open space and grazing land. It will not create another lot. This is the process that they need to follow to make the purchase.

**SWAN BOUNDARY RELOCATION – EAST OF 1240 YADON RD:**

Motion- Powell; Second- Engbretson; Vote- Unanimous: Motion passed to approve the boundary relocation east of 1240 Yadon Rd.

**MANHATTAN ORCHARDS REPAYMENT AGREEMENT:**

Motion- Mancuso; Second- Engbretson; Vote- Unanimous: Motion passed to accept the Manhattan Orchards repayment agreement.

*Jane Mersen, Town Attorney:* She stated that the Town has been negotiating an agreement with Manhattan Orchards since approximately 2017. He gave the history of the water line and this repayment agreement. Council approved an agreement that Manhattan Orchards would pay for the water line and in exchange the Town would agree to change some of the preliminary plat conditions. Over the years it has been negotiated. The Town Attorney and Town Engineer are in favor of this agreement, as well as Manhattan Orchards. She pointed out the changes to the preliminary plat that the Town would agree to.

*Joe Mancuso, 113 N 4<sup>th</sup>:* He stated that he comes out from his house onto Railroad Avenue and asked if there are any traffic studies underway or being considered. Traffic is currently quite an issue, and it is a concern. Lots of kids are on that road. He asked for that to be on the radar.

*Kyle Scarr, Town Engineer:* He stated that there was a traffic study done for the project. The developer will have to address the concerns before final plat is permitted.

#### **DISH LEASE:**

Motion- Mancuso; Second- Powell; Vote- 3 for (Mancuso, Powell, Taylor) and 1 against (Engbretson): Motion passed to not continue pursuing the lease with Dish.

*Jane Mersen, Town Attorney:* She stated that she sent the information to the newest representative. This is the 5<sup>th</sup> version of the agreement. It has all the terms that the Town requested. According to Federal Law, the Town is very limited in the regulations placed on cell towers in Town even through zoning.

Council discussed other options for where a cell tower could put it in Town.

*Councilman Powell:* He stated that he is opposed to cell towers in Town. He agreed that the Town could have some control, but if the company needs access to the tower, the Town will have to be there whenever the company wants access. He talked to another person that leases a cell tower and was told that the cell companies come and go as they please. Technology has a huge presence in our lives, and he feels that the Town needs to wait until the effects of the new technologies are known before moving forward. The last representative has already stated that they are constantly upgrading the equipment.

*Councilman Engbretson:* He stated that the Town can only control telecommunication equipment on the water tower. The current FAA and FCC regulations do not allow the Town to control them anywhere else in Town. Having the equipment on the water tower would allow the Town to have make some money to pay off debt and have some control. He asked about a clause in the lease to allow modifications to their equipment.

*Councilwoman Mancuso:* She stated that she does not like that it is a 15-year lease. She also thinks that the lease should be a higher dollar number. She feels that Dish benefits from the lease and the Town does not.

*Jeff McAllister, Public Works Supervisor:* He stated that, regarding access, the companies would have their own separate gate to their building. Rarely would the Town have to give access to the tower itself. He would always be there to monitor them if they were on the tower, not just let them in. Upgrades to the tank would not be affected by the antennas. Antennas are attached to the railing. Nothing can be attached to the tank itself. He talked to other towns, and they rarely must provide access to their towers. The company's little structure on the ground is where they will make their upgrades. If the Town does not have some control, the property owners around the tower that are not in town could approve a lease on private land. This could bring in a lot of revenue into the Town, and the Town would have some control. The aesthetics of having it on the tower would be better for the Town. It is hard to notice on the tower railing, in contrast to having a tower on the ground.

#### **ENGINEERING CONTRACT EXTENSION- THOMAS, DEAN & HOSKINS:**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to table the engineering services contract extension.

*Kyle Scarr, Town Engineer:* He stated that generally, most of the language is not applicable to large projects as those will be contracted out by bid. This contract is just

for routine work for the Town. The insurance requirements were updated to the most recent contract amounts. Town Engineering is review and oversight, not project engineering.

*Councilwoman Mancuso:* She asked about the updates that were discussed at the last meeting and asked about insurance limitations.

*Councilman Engbretson:* He asked what types of work the Town Engineer contract covers.

*Mayor Clements:* He stated that he reviewed the contract and since it is an extension, it is ok to leave the older dates in.

*Jane Mersen, Town Attorney:* She agreed that the contract should contain the updated insurance coverage amounts. She made some suggestions for edits that could be made to update the contract. She will make the updates as discussed.

### **WRRF PROJECT UPDATE:**

*Kyle Scarr, TD&H:* He stated that the bids for the screw press and biological equipment were opened. Two bids were received. They are still analyzing the bids and will provide a recommendation to the Council for awarding the bid. The thirty percent design has been submitted to the Town. A workshop was held where they got feedback from the Town to move forward with 60% process, which includes architectural and structural models for the buildings. They are continuing to progress on the discharge and site improvements. They are working with the Town to put together a technical memo to Amsterdam/Churchill on what the interlocal agreement lines out. The project is on schedule. However, the DEQ is delayed in their reviews. State law review times are being greatly exceeded. That is the only thing that they are concerned about with the schedule.

### **ORDINANCE NO. 22-002 – L-1 ZONE AMENDMENTS – First Reading:**

Ordinance No. 22-002 will be set for public hearing and second reading at the June meeting.

### **ARPA AGREEMENT WITH THE COUNTY:**

Motion- Powell; Second- Engbretson; Vote- Unanimous: Motion passed to authorize the Mayor to sign the ARPA agreement with Gallatin County.

*Pam Humphrey, Clerk/Treasurer:* She stated that Gallatin County has agreed to pass-through the State Minimum Allocation Grant funding in the amount of \$500,000 to the Town of Manhattan to complete the WRRF Project. Additionally, the County has agreed to subaward \$250,000 to the Town of Manhattan of direct SLFRF funding received from the State for the WRRF Project.

### **BOARD APPOINTMENTS:**

#### **Police Commission**

Motion- Powell; Second- Taylor; Vote- Unanimous: Motions passed to approve the Mayoral appointment of John P Steele to the Police Commission for a three-year term.

### **Park Board**

Motion- Engbretson; Second- Powell; Vote- Unanimous: Motion passed to approve the Mayoral appointment of Ashley Flammond to the Park Board for the remainder of the term of Elly Summers, which is December 2022.

### **WAGE COMMITTEE REPORT:**

Motion- Engbretson; Second- Powell; Vote- Unanimous: Motion passed to accept the wage committee report for the 2022-2023 fiscal year.

*Mayor Clements:* He stated that the wage committee has been meeting for several months. The existing wage matrixes are cumbersome and have been designed to fit the individuals that work for the Town and not the organization as a whole. The committee looked at the wage structure of several surrounding municipalities and decided to model after the structure of Belgrade's matrix. Lists of positions are put into grades that have similar skill levels and experience requirements. At the same time, the committee looked into the wages themselves due to inflation and growth in the valley. There is a need to retain employees within the Town. He presented a summary to the Council that showed each position. The committee set a starting wage at the lowest grade at fifteen dollars per hour, which is significantly higher than the previous starting wage. The average increase is between eight and twelve percent. Some are higher if they were significantly underpaid previously. There is also a performance evaluation that will be tied to the pay structure. He has discussed the changes with the department heads and that they will need to adjust their budgets.

*Pam Humphrey, Clerk/Treasurer:* She stated that the old matrixes had a one percent longevity built into the matrix. The new matrix has one percent longevity between most years, but there is three- and one-half percent longevity built in at years five, ten, fifteen, and twenty years. The Council would then decide on the cost of living increase each year.

### **MAYOR'S REPORT:**

- Tonya Owens graduated from the Municipal Clerk's Institute with 120 hours of class time.
- The police vehicle is on the build schedule for 30 weeks out.
- One police officer has resigned, so the Police Department is advertising for two positions.

### **CONSENT AGENDA:**

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

**Town Licenses:** Mobile Mike's Food to Go! and Business/Alcohol license for L&F Market, LLC.


**Approval of Minutes:** Regular Meeting minutes from April 14, 2022, Special Meeting minutes from April 21, 2022, and Executive Meeting minutes from April 21, 2022.

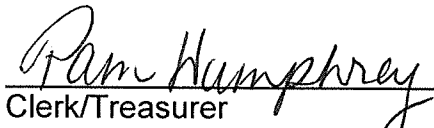
**Claims:** Dated 04/15/22 – 05/12/22 totaling \$ 240,755.82.

The Nutrient Reduction Project was rejected by ARPA. They have asked for \$500,000 from the County.

**ADJOURN:**

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

  
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Mayor

  
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Clerk/Treasurer

**TOWN OF MANHATTAN  
Regular Meeting  
June 9, 2022  
MINUTES**

Mayor Glen Clements 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 Betsy Mancuso, Josh Powell, and Morgan Taylor. Ryan Engbretson was excused. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, and Clerk/Treasurer Pam Humphrey. One member of the public was present. One member of the public was present via Zoom.

**PUBLIC COMMENTS:**

Written Comments:

*Mark Stephenson, 2 Oxbow Ln:* He expressed that he was happy that the Dish lease was not approved.

*Brittney Stephenson, 2 Oxbow Ln:* She thanked the Council for voting against moving forward with the Dish lease.

**ORDINANCE NO. 22-002 – L-1 AMENDMENT:**

Clerk read the public hearing notice.

**Public Hearing**

None

**Discussion/Decision**

Motion- Mancuso; Second- Taylor; Vote- Unanimous: Motion passed to approve Ordinance No. 22-002, an ordinance of the Town Council of the Town of Manhattan amending the Manhattan Municipal Code, Title 10, Chapter 7, Article C. L-1 Light Industrial District.

**RESOLUTION NO. 22-003 – UNCOMMIT AND RECOMMIT FUNDS:**

Motion- Powell; Second- Mancuso; Vote- Unanimous: Motion passed to approve Resolution No. 22-003, a resolution of the Town Council of the Town of Manhattan, Montana un-committing cash from a capital improvement fund and re-committing it to another capital improvement fund for the 2021-2022 fiscal year budget.

**RESOLUTION NO. 22-004 – SWAN ANNEXATION:**

Motion- Taylor; Second- Powell; Vote- Unanimous: Motion passed to approve Resolution No. 22-004, a resolution of the Town Council of the Town of Manhattan, Montana, to annex the property described as the SW1/4 of Section 2, Township 1 North, Range 3 East, Principal Meridian Montana, Gallatin County, Montana, into the corporate limits of the Town.

**RESOLUTION NO. 22-005 – DRUG POLICY AMENDMENT:**

Motion- Powell; Second- Mancuso; Vote- Unanimous: Motion passed to table the resolution until the July meeting.



**AUDIT CONTRACT:**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to approve the Mayor to sign the Audit Contract with Denning, Downey & Associates.

*Councilwoman Mancuso:* She stated that she met with the Auditor for the Exit Conference for the 20-21 audit. She reported that the Town received the highest rating from the auditor for the Clerk/Treasurer's accounting of the Town's financial records.

**ENGINEERING CONTRACT – TD&H:**

Motion- Taylor; Second- Mancuso; Vote- Unanimous: Motion passed to approve the Mayor to sign the Engineering Contract with Thomas, Dean, & Hoskins.

**WRRF PROJECT UPDATE:**

*Kyle Scarr, TD&H:* He stated that they are ready to deliver the 60% design submittal. The Geotech report has been finished for the lift station and lower building. The consultant team made a recommendation for the screw press. The engineers will be doing workshops with the plant employees and then final design will be completed.

*Mayor Clements:* He stated that they are happy with the progress on the design. TD&H has worked to provide efficiencies that he and the plant engineer have been asking for.

**WRRF EQUIPMENT PROCUREMENT RECOMMENDATION OF AWARD:**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to table the award the bid for the screw press and equipment until the July meeting.

**SET SPECIAL MEETING FOR DEPARTMENT BUDGETS:**

Department Head presentations set for June 16 at 7:00.

Budget workshop set for July 21 at 7:30 pm.

**MAYOR'S REPORT:**

- Referred to report from Chief Hengel regarding interviewing for new officers.

**CONSENT AGENDA:**

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

**Town Licenses:** Night Show Lighting, Parisi Western Plumbing & Heating, Inc.

**Kennel License:** Ben & Regina Kane, 16 Travelers Way

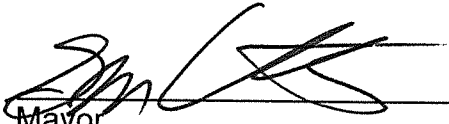
**Chicken Coop License:** Andy & Katie Powner, 512 W Gallatin Ave.


**Approval of Minutes:** Regular Meeting minutes from May 12, 2022.

**Claims:** Dated 05/15/22 – 06/09/22 totaling \$ 259,807.95.

**ADJOURN:**

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

  
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Mayor

  
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Clerk/Treasurer

**TOWN OF MANHATTAN  
Special Meeting  
June 16, 2022  
MINUTES**

Mayor Glen Clements 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 Betsy Mancuso, Josh Powell, and Morgan Taylor. Ryan Engbretson was absent. Also present were Town of Manhattan Department Heads and Clerk/Treasurer Pam Humphrey. No members of the public were present.

**PUBLIC COMMENTS:**

None

**LIBRARY:**

*Trudy Dundas, Library Director:* She presented the Library budget requests to the Council. She explained some problems they are having with the scheduled summer activities. She suggested thinking about the Town opening the Community Library in its own space.

**FIRE DEPARTMENT:**

*Pam Humphrey, Clerk/Treasurer:* She stated that Chief Ulmen was out of Town. She presented the Fire Department budget requests to the Council.

**WATER RECLAMATION FACILITY:**

*Robert Seamons, Engineer:* He presented the Reclamation Facility budget requests to the Council. He reminded the Council that Amsterdam/Churchill shares in the cost in relation to their flow. He talked about the WRRF project. He also explained some of the regulations that they must adhere to.

**POLICE DEPARTMENT:**

*Dennis Hengel, Chief of Police:* He presented the Police Department budget requests to the Council. He informed the Council that they recently made an offer to hire a new experienced officer.

**PUBLIC WORKS:**

*Jeff McAllister, Public Works Supervisor:* He presented the Public Works budget requests to the Council. He prioritized the items for the Council. He highlighted things needed for water, sewer, and streets.

**PARK:**


*Jeff McAllister, Public Works Supervisor:* He presented the Park budget requests to the Council.


**TOWN OFFICE/PLANNING BOARD/BUILDING DEPARTMENT:**

*Pam Humphrey, Clerk/Treasurer:* She presented the Town Office, Planning Board, and Building Department budgets.

**ADJOURN:**

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

  
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Mayor

  
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Clerk/Treasurer

**TOWN OF MANHATTAN**  
**Regular Meeting**  
**July 14, 2022**  
**MINUTES**

Mayor Glen Clements 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 Betsy Mancuso, Josh Powell, and Morgan Taylor. Ryan Engbretson was absent. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Chief of Police Dennis Hengel, Sergeant Austin Owens, Senior Patrol Officer Sean Tomlins, Deputy Clerk/Treasurer Tonya Owens, and Clerk/Treasurer Pam Humphrey. Twenty-one members of the public were present.

**PUBLIC COMMENTS:**

Written Comments:

*Robert and Lisa Barksdale, 105 N 4<sup>th</sup> St:* They thanked the Council for not allowing the Town to enter into an agreement with Dish Wireless.

**SWEAR IN NEW OFFICER:**

Mayor Clements swore in new Manhattan Police Department Officer Patrick Harris.

**CONDITIONAL USE PERMIT – CASINO AT 110 S BROADWAY:**

Clerk read the public hearing notice.

**Public Hearing**

*Kathy Bushnell, Applicant:* She said that this is the last process to start the remodel of the building.

Written Comment:

*Linda and Steve Jones, 111 N 6<sup>th</sup>:* Wrote in opposition to the Casino CUP.

Public Comment:

*Drew Waltee, 358 Pioneer Crossing Blvd:* He spoke in opposition to the CUP. He stated that he would not like to see a casino come into Manhattan, especially on the main road into Town. There are other places people can go to gamble.

*Connie LeHocky, 205 N 4<sup>th</sup> St:* She spoke in opposition to the CUP. She stated that she agreed that it would not be appropriate to have a casino in this town. The Town is growing, and she would prefer other businesses to a casino. More essential businesses are needed.

*Gabe Smith, Bozeman:* He spoke in support of the CUP. He stated that he is part of the family and is the contractor on the remodel job. The Town is growing, and he feels that this is a family business, not a large corporate casino. The remodel will upgrade the area. The business donates a lot to the communities that they are in.

*Kathy Bushnell, Applicant:* She gave examples of the community events that they have donated to in the last year.

*Debra Smith, Bozeman:* She stated that this casino does provide for families, with the pizza restaurant. The casino and liquor store are separate from the family area.

*Drew Waltee, 358 Pioneer Crossing Blvd:* He stated that he feels that any business would provide employment and contribute to the community. He feels that there are enough of those type of businesses in Manhattan.

**Discussion/Decision**

Motion- Taylor; Second- Mancuso; Vote- 2 Aye (Taylor, Mancuso), 1 Nay (Powell): Motion passed to approve the Conditional Use Permit for a Casino at 110 S Broadway, owned by Manhattan Broadway, LLC, as it meets the requirements of the Conditional Use Permit.

Mayor Clements referenced the Staff Report from the Town Planner and the Planning Boards recommendations. Both recommend approval of the application.

Council discussed the history of the process and the application. They read the requirements and the reason for the recommendation of approval. The Planning Board minutes stated that the applicant met the requirements for the Conditional Use Permit.

*Councilman Powell:* He stated that he has been asked by some citizens not to approve the Conditional Use Permit.

*Jane Mersen, Town Attorney:* She stated that the Council will need to make findings on which they will make their decision. If there are good reasons for denial, they need to be stated. If approved, the council will need to make the finding to support that decision.

**NOISE COMPLAINT:**

Motion- Powell; Second- Taylor; Vote- Unanimous: Motion passed to have the Planning Board evaluate a noise ordinance and get back to the Council.

The town has received some noise complaints regarding the spur loading for Blackhawk.

*Connie LeHocky, 205 N 4<sup>th</sup>:* She stated that she lives 5.5 blocks away from the spur where the unloading is happening. The noise is excessive at times. She played a recording of the noise. She thinks that there should be a compromise that could be made with Blackhawk to bring the noise down. A new truck has come that is significantly less loud than it has been in the past. She would like Blackhawk to guarantee that the noise level will not be higher than what is acceptable in most cities.

*Aaron Hepler, 825 Nixon Gulch Rd:* He stated that he feels that Blackhawk has been erratic with its respect to the Town. 65 decibels are reasonable and can be done. The loud truck has been up to 85 decibels, which will violate most noise ordinances. They are requesting that a formal request be sent to Blackhawk to keep it down. If that doesn't work, they are asking the Town to enact a noise ordinance in Town.

*Steven Clay, Blackhawk:* He stated that he is the scheduler for the loads. They lease the spur from Rail Link. Blackhawk had no say in the location of the spur. They are working with the transport company to reduce the noise. They have changed the time to take loads. They have also eliminated weekend loads except for emergencies. He gave examples of how Blackhawk supports the community in many ways and engages in numerous charitable endeavors. They are taking steps to work on the problem. The vacuum system is making the noise. There is muffler on the system now. The transportation company owns the trucks and has done research on the sound problem. He stated that 85 decibels are the sound level of a lawn mower.

*Elizabeth Hepler, 825 Nixon Gulch Rd:* She stated that she is asking for a noise ordinance at this point. The difference between 65 and 85 decibels is 100 times. She wants on record that if it stays below 75 decibels that is fine.

*Jane Mersen, Town Attorney:* She stated that the current ordinance that deals with noise is a nuisance ordinance, which includes "loud noises". It could be found to be a public nuisance. The Council could make a request to the Planning Board to enact a noise ordinance. Enforcing the nuisance ordinance is a process.

*Councilwoman Mancuso:* She read the definition of a nuisance. She lives in the same neighborhood as the complainant. She just started noticing it the in last couple of years. It is very annoying for 1-3 hours. She has not heard it at all in the last 3 weeks, even though it has been running with the muffler. Blackhawk is not the problem, just the noise is. Hopefully the muffler thing will work.

*Councilman Morgan:* He stated that an effort has been made by Blackhawk.

*Councilman Powell:* He stated that he is impressed that the community has worked together. He commends Blackhawk for the efforts that they have made. They are doing the right thing and he would like to see that continue.

*Connie LeHocky, 205 N 4<sup>th</sup> St:* She stated that it is great that they are trying to make something better. She would like to have clear guidelines on the noise level and duration of loading times. She would like to see enforcement of the guidelines. She wants parameters of what will or will not be accepted.

*Joe Mancuso, 113 N 4<sup>th</sup>:* He asked if the "health" portion of the code includes mental health. He is a musician and knows that some tones are not healthy for human beings.

*Stacy Ballard, 417 N RR:* She stated that their kids do not eat when the sound is going on. They do not go outside. The noise is affecting the quality of life of some people. It is disruptive, it is a nuisance, and it does affect their health. It is obviously quieter with the muffler.

#### **SEWER ORDINANCE AMENDMENT REQUEST:**

Motion– Taylor; Second- Mancuso; Vote- Unanimous: Motion passed to amend the motion to include all other ordinances and subdivision regulations affected by issue.

Motion- Powell; Second- Mancuso; Vote- Unanimous: Motion passed to direct staff to draft an amendment to the sewer ordinance.

*Mike DeVries, Applicant – Dutch Brothers:* He described that they and Eagle Point are proposing to change the plan for the area from 190 homes to 13 light industrial lots.

*Brent Miller, Gaston Engineering:* He stated that they have submitted a proposal to change the code to allow an on-site sewer system until they can hook to the Town system. They plan to use on-site wells until they can hook up. They will install all fire flow and water infrastructure, so it is ready to hook to the Town when available. They are suggesting a similar interim system for the sewer disposal.

*Kyle Scarr, Town Engineer:* He stated that he evaluated if this could potentially harm the Town in the long run. He has suggested some items in the amendment that will protect the Town. The design is regulated through the State. He wanted to make sure that the Town would be able to control it if it would be detrimental.

*Jane Mersen, Town Attorney:* She stated that it is similar to what is allowed with interim wells. It would be an interim system that would switch over when sewer is available from

the Town. She asked if the Council would be interested in this type of amendment. She stated the ordinance would preclude residential developments from trying to use this type of interim system. She suggested making a minimum lot size of 2 acres to decrease the risk of cross contamination of other water and sewer systems. It would be done on a case-by-case basis. The Town would have the right to deny any systems. It would only be applicable to developments of twenty acres or greater. Within the subdivision, there would be a minimum lot size of two acres. The proposed system could not adversely impact the Town's existing water or wastewater infrastructure. It could not adversely affect any neighboring property with respect to water or wastewater. It could not prohibit the Town from installing any infrastructure around it. There need to be securities in place where the burden is on the developer for the switch over to the Town system when the time comes. Impact fees and when they are paid to the Town would have to be established.

*Brent Miller, Gaston Engineering:* He explained the system that they are proposing. It has a gravity system with a lift station at the manhole with a valve to turn when they can hook up to the Town system. They are willing to do whatever the Town would like to see. They will have an advanced treatment facility that disposes into a drain field. Their design incorporates all mixing zones required by the DEQ. Utilities could be in the right of way, originally maintained by the HOA.

*Mike DeVries, Dutch Brothers:* They will be asking for a zoning change also, so they would like to get an indication if the Council would be in favor of that. They are looking for large warehousing businesses, such as the Yellowstone Commercial Center in Belgrade which he owns. They would like some direction from the Council to keep their process moving. The Town would get the water rights for the wells when the development hooks up to the Town's sewer.

*Councilwoman Mancuso:* She stated that she shares the concerns that it does not adversely affect the Town in any way. Impact fees need to be worked out. She would like more information about the septic system plan.

*Kyle Scarr, Town Attorney:* He stated that there is discussion about what goes to the Town system when the time comes. Step systems may be come septic and may harm the treatment process.

The possible processes for handling the waste were discussed. The road system and access were discussed. Council discussed the uses and sizes of lots.

#### **RESOLUTION NO. 22-006 – BUILDING CODES:**

Motion- Powell; Second- Taylor; Vote- Unanimous: Motion passed to adopt Resolution No. 22-006, a resolution of the Town Council of the Town of Manhattan, Montana to adopt the 2021 International Building Code, 2021 International Residential Code, 2021 International Energy Conservation Code, 2021 Existing Building Code, 2021 International Mechanical Code, 2021 International Fuel Gas Code, 2021 International Pool and Spa Code, 2021 Uniform Plumbing Code, and 2020 National Electrical Code.



**WRRF EQUIPMENT PROCUREMENT RECOMMENDATION OF AWARD:**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to accept the recommendation for the WRRF Project Screw Press Equipment procurement to FKC Co, LTD and authorize the Mayor to sign the notice of award.

Motion- Powell; Second- Taylor; Vote- Unanimous: Motion passed to accept the recommendation for the WRRF Project Integrated Fixed-Film Activated Sludge Equipment to Nexom USA, Inc plus alternates A, B, C, D, and E and authorize the Mayor to sign the notice of award.

**WRRF PROJECT UPDATE:**

*Kyle Scarr, TD&H:* The selection of the above items was entered in the construction documents. It will go in for permit review and Town review. They are on schedule to meet the original time frames.

Mayor Clements indicated that this would help the engineers to move forward.

**PRELIMINARY BUDGET 2022-2023:**

**Budget available for public inspection July 15, 2022**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to approve the Preliminary Budget for Fiscal Year 2022-2023.

**MAYOR'S REPORT:**

- Gallatin County has awarded the Manhattan Nutrient Reduction Project on the Kaiser property \$450,000.

**CONSENT AGENDA:**

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

**Town Licenses:** Mays Heating & Cooling, Allied Electrical Services, Bannan Construction Co., Purelight Power, and Harvest Solar MT, LLC.


**Approval of Minutes:** Regular Meeting minutes from June 9, 2022 and Special Meeting minutes from June 16, 2022.

**Claims:** Dated 06/10/22 – 07/14/22 totaling \$ 495,914.68.

**ADJOURN:**

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

  
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Mayor

  
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Clerk/Treasurer

**TOWN OF MANHATTAN  
Special Meeting  
July 21, 2022  
MINUTES**

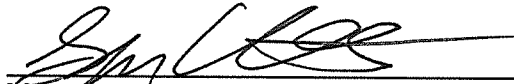
Mayor Glen Clements called the meeting to order in the Town Meeting Room, at 207 S 6<sup>th</sup> St. at 7:00 P.M. Present were Council Members Ryan Engbretson, Betsy Mancuso, Josh Powell, and Morgan Taylor. Also present was Clerk/Treasurer Pam Humphrey. No members of the public were also present.

**DISCUSSION OF DEPARTMENTAL BUDGET REQUESTS:**

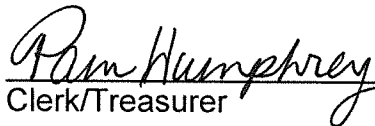
The Council reviewed and discussed the budget requests made by the individual departments. They made recommendations on what should be included in the budget, what should be eliminated, what should be changed, and what they would like to see more information on.

**ADJOURN:**

Mayor Clements adjourned the meeting.



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Mayor



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Clerk/Treasurer

**TOWN OF MANHATTAN  
Regular Meeting  
August 11, 2022  
MINUTES**

Council Woman Betsy Mancuso 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, Josh Powell, and Morgan Taylor. Mayor Clements was excused. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Chief of Police Dennis Hengel, and Clerk/Treasurer Pam Humphrey. Fourteen members of the public were present.

**PUBLIC COMMENTS:**

*Jennifer Carr, 200 Lund Lane:* She stated that she is an agricultural producer on a leg of the Baker Ditch. They just discovered that the construction company has diverted the ditch without permission, consent, or even asking. She just wanted to let the Town know what was going on.

*Dorinda Grimshaw, 2000 Nixon Gulch:* She stated that her family are also agricultural producers on the same leg of the ditch as the Carr's. They have also found that the ditch had been diverted without their permission and they also have pictures of the diversion.

**POLICE DEPARTMENT- INTRODUCE NEW OFFICER:**

Chief Hengel introduced new Manhattan Police Department officer William Armstrong.

**WRRF PROJECT UPDATE:**

*Matt McGee, TD&H:* He stated that the project is in final design working toward 90% design. They are on schedule for the overall project. They are planning on fall approval from the DEQ. They are attending funding calls regularly also.

**WRRF AMENDMENT 2:**

Motion- Powell; Second- Engbretson; Vote- Unanimous: Motion passed to approve the WRRF Amendment 2, with the exclusion of the CMU building.

*Matt McGee, TD&H:* He presented the items that are included in the amendment. The BABA (Build America Buy America) requirements are a concern, and they may need to submit a waiver to the funding group if they cannot meet the BABA requirements. He explained the changes that have happened. They will save 650,000 by not having to build the screw press building. With that money, they can purchase some other needed equipment. He explained the processes and construction ideas. A CMU building might need less maintenance but will cost more to construct than the steel building. The cost difference is \$80,000.

Council discussed the change from a steel building to a cinderblock building. They discussed cost and engineering required for each type of building.

**ORDINANCE NO. 22-003 – SEWER ORDINANCE AMENDMENT:**

**First Reading**

Motion- Engbretson; Second- Taylor; Vote- Unanimous: Motion passed to approve the first reading with a change to L-1 District only. It was set for 2<sup>nd</sup> reading at the September Council meeting.

*Jane Mersen, Town Attorney:* She reminded the Council of the reason for the ordinance amendment. Exhibit A is the specific wording. They needed to see if it was viable from an engineering standpoint. It does not interfere with the Town's ability to install any new infrastructure. It does not apply to residential developments. It also addresses the issue of when the impact fees are paid, and who pays them. Even with DEQ approval, developers would have to meet all Town requirements.

*Mike DeVries, 7285 Churchill Rd, Dutch Brothers:* He stated that he thinks that the DEQ will only approve uses in the Light Industrial District.

Council discussion included zoning changes, reasons, and the definition of smart development. They discussed what would happen to the system once they can hook up to the Town's infrastructure. The Engineers would have to decide on a case-by-case basis what can stay and what must be removed. It would be addressed in the Preliminary Plat Findings of Fact and Conditions for each new individual development. They discussed that the Light Industrial District would be the only district that this type of system would be allowed.

**RESOLUTION NO. 22-005 – FISCAL 21-22 BUDGET AMENDMENT:**

**Public Hearing**

None

**Discussion/Decision**

Motion- Engbretson; Second- Powell; Vote- Unanimous: Motion passed to adopt Resolution No. 22-005, a resolution of the Town Council of the Town of Manhattan, Montana amending the Fiscal 2021-22 budget to allow for appropriations and funding.

**RESOLUTION NO. 22-007 – BUDGET FOR FISCAL 2022-2023:**

**Public Hearing**

None

**Discussion/Decision**

Motion- Powell; Second- Taylor; Vote- Unanimous: Motion passed to adopt Resolution No. 22-007, a resolution of the Town Council of the Town of Manhattan, Montana adopting a budget for the Town of Manhattan for the Fiscal Year 2022-2023.

**RESOLUTION NO. 22-008 – LIGHT MAINTENANCE DISTRICT 22-23:**

**Public Hearing**

None

**Discussion/Decision**

Motion- Engbretson; Second- Powell; Vote- Unanimous: Motion passed to adopt Resolution No. 22-008, a resolution of the Town Council of the Town of Manhattan providing for the assessment of maintenance costs for the Street Lighting Maintenance District for the Fiscal Year 2022-23 which is a continuation of the present method of assessment.

**RESOLUTION NO. 22-009 – STREET MAINTENANCE DISTRICT 22-23:**

**Public Hearing**

None

**Discussion/Decision**

Motion- Taylor; Second- Engbretson; Vote- Unanimous: Motion passed to adopt Resolution No. 22-009, a resolution of the Town Council of the Town of Manhattan providing for the assessment of Street Maintenance District costs for the Fiscal Year 2022-23 pursuant to § 7-12-4425, MCA which is a continuation of the present method of assessment.

**RESOLUTION NO. 22-010 – BRIDGE & ROAD SAFETY PROGRAM FUNDS:**

Motion- Powell; Second- Engbretson; Vote- Unanimous: Motion passed to adopt Resolution No. 22-010, A resolution of the Town Council of the Town of Manhattan, Montana requesting distribution of Bridge and Road Safety and Accountability Program Funds.

**SWIMMING POOL DISCUSSION:**

*Jan VanDyke, 703 Yellowstone:* She stated that she has been a resident of Manhattan for 23 years. She is an advocate for the Senior Center and an advocate for American Legion Post 87. They had a meeting last week and discussed the idea of a swimming pool in Manhattan. They know that they need direction, specifics, a location, and design professionals. She spoke to Gretchen Engbretson and was advised to present the proposal. She gave some demographics on the population of Manhattan. She feels that the entire community would benefit from a swimming pool.

*Dave Hinchliff, 7005 Skylark Drive:* He stated that he is the financial director of American legion. They are looking for direction on moving forward.

*Shawna Taylor, 106 N 2nd:* She suggested talking to other communities that have a pools to see how they were started and funded. She suggested Butte and Townsend.

**MAYOR'S REPORT:**

None

**CONSENT AGENDA:**

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

**Town Licenses:** Manhattan Restaurant Group/DBA The Manhattan Saloon, Corbin Insurance Agency Inc/DBA State Farm Insurance, 117 Valley LLC, Legacy Telecommunications, LLC/DBA Legacy Power Systems, Corbins, LLC, and Three Rivers Studio.


**Approval of Minutes:** Regular Meeting minutes from July 14, 2022, and Special Meeting minutes from July 21, 2022.

**Claims:** Dated 07/15/22 – 08/11/22 totaling \$ 327,077.77.

**ADJOURN:**

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

  
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Mayor

  
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Clerk/Treasurer

**TOWN OF MANHATTAN  
Regular Meeting  
September 8, 2022  
MINUTES**

Mayor Glen Clements 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, Josh Powell, Betsy Mancuso, and Morgan Taylor. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Chief of Police Dennis Hengel, Fire Chief Mike Ulmen, and Clerk/Treasurer Pam Humphrey. Seventeen members of the public were present.

**PUBLIC COMMENTS:**

*Jennifer Carr, 200 Lund Ln:* She stated that she has lived here for about 20 years. She stated that she owns water rights on a ditch that comes off the Baker Ditch. She read a written statement about the ditch issues she has been having with the developer of the first two phases of Manhattan Orchards. She asked the Council to direct the developer to stop until they get her written permission to interfere with the ditch.

*Jennifer Boyer, 10281 Kelly Canyon Rd, Bozeman:* She introduced herself and stated that she is running for Gallatin County Commissioner.

*Wendy Meier, 385 Northwest Passage Blvd:* She stated that she is a member of the Park Board and asked more people to join. She stated that the Park Board will be coming up with ideas to make the park more community based. For example, being more water wise, getting groups interested in doing thing in the park, and having more community involvement. They will be bringing their ideas to future Council meetings.

*Erica Sebring, 8640 Poelman Lane:* She expressed that regardless of properties, the Town should take time to hire a consultant to do an environmental assessment. Her family have been residents for a couple of years. They chose to live in a small town, participated in the Growth Policy surveys and read the results. She is seeing a trend that people love it the way it is. She questioned how growth will it impact the Town and the kids.

2 written comments:

*Jonathan Skillman, 6090 Pleasant St:* He expressed his concern about the direction of some on the Planning Board regarding expansion of Manhattan. He is concerned about high density development both in Churchill and Manhattan. He wrote that he strongly opposes any high density growth plans.

*Laura Skillman, 6090 Pleasant St:* She expressed that she was writing out of concerns she has regarding the growth and development of Manhattan and Churchill. She wrote that she does not want more farm land bought up, the Manhattan water system expanded, subdivisions, or high density development.

**ORDINANCE NO. 22-003 – SEWER ORDINANCE AMENDMENT- Second Reading:**

Clerk read the public notice.

**Public Hearing**

*Jane Mersen, Town Attorney:* She stated that she made the requested changes from first reading and what those changes were.

No public comments

**Discussion/Decision**

Motion- Engbretson; Second- Powell; Vote- Unanimous: Motion passed to approve Ordinance No. 22-003, an ordinance of the Town Council of the Town of Manhattan amending the Manhattan Municipal Code to allow for the use of interim septic systems for certain lots, amending Sections 9-1-2, 9-1-6, 9-2-2, and 11-6-10 of the Manhattan Municipal Code Council discussed the changes and agreed that they were correct.

**ZONE CHANGE FROM R-1 TO L-1: LF LIMITED/DUTCH BROTHERS:**

**Public Hearing**

*Brent Miller, Gaston Engineering:* He described the development of 60 acres with 13 total lots, with 2-5 acres per lot. It was previously a residential development with close to 200 residential lots. The area is annexed into the city, with no water or sewer available.

*Mike DeVries, Developer:* He stated that 13 business lots is more beneficial to Manhattan to keep it the way it is compared to 200 residential lots. It will also provide water rights to the Town.

**Discussion/Decision**

Motion- Taylor; Second- Engbretson; Vote- Unanimous: Motion passed to change the zoning of LF Limited Partnership, S09, T01N, R03E, COS 2544B, Parcel 1 and Dutch Brothers LLC, S09, T01N, R03 E, COS 2544B, Parcel 2 from R-1 Low Density Residential District to L-1 Light Industrial District.

Council discussed the benefits of 13 lots vs 200. This is a way for the Town to have a say on the use of the property. Council expresses that the applicants have been at the meetings for the entire process and that has been very helpful.

**WRRF PROJECT UPDATE:**

*Kyle Scarr, Town Engineer:* He stated that they pushing to complete the final design documents and drawings. They are looking at mid-October for DEQ submittal. They will be on schedule for original bid time early in 2023. They will be working on flood infiltration testing on the lagoons. They are on schedule budget wise. The Groundwater Discharge Permit is behind at the DEQ because of State staff shortages. They are two months past the time due and have not gotten to the application yet. The engineers would like permit approved before the project goes out to bid.

**APPOINT TOWN PLANNER:**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to appoint Scott Hazelton with Hyalite Engineers as the Town Planner, on condition of a mutually acceptable rate agreement.

Two submittals were received. Council has reviewed the submittals.

*Mace Mangold, engineer and Jamie Earbacher, senior planner with WGM Group:* They introduced themselves and gave an overview of their experience.

*Mike Stenberg, engineer and Scott Hazelton planner with Hyalite Engineers:* They introduced themselves and gave an overview of their experience.

Council asked the applicants questions and why they were interested in the position. They discussed rates and budget constraints and any possible conflicts of interest.



**RESOLUTION NO. 22-011 – GAS AND VACUUM SYSTEM CODE:**

Motion- Powell; Second- Mancuso; Vote- Unanimous: Motion passed to approve Resolution No. 22-011, a resolution of the Town Council of the Town of Manhattan, MT to adopt the 2018 NFPA 99 Gas and Vacuum Systems Code.

**RESOLUTION NO. 22-012 – CANCEL OUTSTANDING WARRANTS:**

Motion- Engbretson; Second- Taylor; Vote- Unanimous: Motion passed to adopt Resolution No. 22-012, a resolution of the Town Council of the Town of Manhattan, Montana to cancel outstanding municipal warrants. The warrants canceled were:

Warrant No.	Amount	Vendor Name	Date Issued
19780	\$ 39.00	A&M Fire Safety	5/9/2018
19781	\$237.29	American Medical Response	5/9/2018
20624	\$ 70.93	American Medical Response	3/12/2019
21335	\$ 14.93	American Medical Response	11/4/2019
21715	\$ 20.00	National Rifle Association	3/24/2020
21777	\$240.00	Centennial Village HOA	4/8/2020
23262	\$ 12.00	James Hutson	8/31/2021

**APPOINT COUNCIL PRESIDENT:**

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

**MAYOR’S REPORT:**

- The Police Department has hired two new officers. Both are doing well.

**CONSENT AGENDA:**

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

**Home Occupation Permit:** Amanda Dyksterhouse, 705 Madison Ave.

**Town Licenses:** Recherche Organics LLC, Cedar Creek Candle Co LLC, and Maker’s Mind Metal & Design.

**Approval of Minutes:** Regular Meeting minutes from August 11, 2022.

**Claims:** Dated 08/12/22 – 09/08/22 totaling \$ 152,438.54.

**ADJOURN:**

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



Mayor



Clerk/Treasurer

**TOWN OF MANHATTAN  
Special Meeting  
September 28, 2022  
MINUTES**

Mayor Glen Clements 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, Josh Powell, Betsy Mancuso, and Morgan Taylor. Also present were Town Engineer Kyle Scarr, Chief of Police Dennis Hengel, and Clerk/Treasurer Pam Humphrey. Twenty-two members of the public were present.

**PUBLIC COMMENTS:**

None

**DISCUSS MANHATTAN ORCHARDS DEVELOPMENT:**

Mayor Clements informed the audience that the purpose of the meeting is to hear both sides of what is going on with the ditch work in the Manhattan Orchards Subdivision.

*Jennifer Carr, 200 Lund Ln:* She read her statement to the Council recounting the incidents that occurred regarding her ditch easement within the Manhattan Orchards Subdivision. The developers have not gotten their written permission to encroach on the ditch easement. Town Attorney Jane Mersen has issued a Cease and Desist Notice to the developer and the Carrs have been issued a Temporary Restraining Order against the developer. She presented the Council with her statement, a copy of the Police report from the most recent incident, the Cease and Desist Notice, and some email threads. She stated that they were without water from May to August because of previous work the developers had done. They had to hire an excavator to try to fix the issue themselves. They hired Watson Irrigation, who agreed that the ditch had been left in poor condition. Because of this, she is concerned about giving written permission to the developers for more work in the ditch. She described some of her other interactions with the developers and their workers. One incident resulted in possible criminal charges against one of the workers. She asked the Council to again ask the developer to stop working in the ditch easement and comply with the Cease and Desist Notice and TRO until the matter can be heard by the District Court.

*Michael Dyk, 1887 Yadon Rd:* He stated that he oversees the Perks Canal, which goes through the middle of Town. He feels that how this issue is handled sets a precedence with water rights and easements. Easements are not negotiable. The average ditch easement is 25 feet on each side from the center of the ditch. He is advising to be careful and move forward. The ditch owners have the rights first, not the developer.

*Brian Grimshaw, 2000 Nixon Gulch:* He stated that his property borders the Carrs' and he also has ditch rights. He asked the Council to take Mr. Dyk's advice. Agriculture is very important, and water is everything. Water affects their livelihoods. He asked the Council to consider them and other water users when making decisions.

*Jennifer Farve, attorney for the developer:* She stated that the developer is in the process of purchasing the first two phases of the subdivision. She wanted the Council to meet the developer and give them a face. In order to close, they need to have Final Plat approval. They are working to meet the requirements of the preliminary plat. They have made efforts to meet the ditch easement requirements. She agrees that agriculture is important. She says that every effort is being done to make it right. They are trying to make an agreement with the Carrs and Grimshaws. They were surprised by the TRO. They feel that the Carrs and Grimshaws are receiving the water that they are entitled to. There is a statute in MT that one may not encroach or interfere with someone's ditch easement. She explained what an easement is and what an encroachment is. She feels that they have not interfered with the ditch easement. They agreed to have Watson Irrigation address the ditch repairs. They have also agreed to pay for the hay that the Carrs had to buy to for their animals because they were without water to grow grass. They feel that they are supposed to have a written agreement, but they do not feel that they are interfering with the ditch. A Prescriptive Easement is established over time as it is historically used. A lot of ditches don't have a recorded document. It is a non-possessory easement and has a limited scope.

Council asked some questions about the water flow issue. The Council asked why they violated the Cease and Desist Notice. The Council asked if the developers were meeting the preliminary plat condition.

*Steve Barrett, attorney for Manhattan Orchards:* He stated that they do not agree that they were violating the Cease and Desist Notice. The roads have to be done because the Town needs them.

*Casey Bennett, Easton Company Project Manager:* He stated that they are working in and around the ditch every day. They worked on the ditch at the north end first and were then working more to the south. They have never seen the water stop flowing. Tiger Lane is closed for road work for the subdivision. It is closed from September 26 through October 28. They cannot get into Greenspur Road because of the Cease and Desist. Allied has inspectors on sight daily. There will be a full as-built of the project upon completion. Allied designed the culverts. The Cease and Desist violation was when they were working on the trail.

Council asked Bennett how closely he works with the Town Engineer on the process.

*Kyle Scarr, Town Engineer:* He stated that when preliminary plat occurs, requirements are in the plans, which are design related. Preliminary plat conditions are put in. Developers submit plans to him to make sure that the designs meet the Town's requirements. Town design standards are checked. Wetlands and ditches are not within the Town Engineer's purview. Some things are checked before design and some are made before final plat. When he was notified that there were issues, he reached out to the Town Attorney. The ditch company operates the ditch. Generally, the Town cannot

approve something that needs to be handled with the ditch company. The Town Attorney and he did the site visit and reviewed the engineer documents. The Town cannot have much of a role as far as jurisdiction in a ditch issue. A condition of the preliminary plat is to have a definite easement for the ditch.

Councilwoman Mancuso requested that the Town Engineer be more involved and protect the Town if there are illegal or improper things happening.

*Todd Waller, developer:* He stated that they would like to finish the project and do it correctly. He addressed the Cease and Desist Notice. They feel that it was issued based on the presumption that the culverts were installed incorrectly. They contend that the culverts were installed correctly. They got permission from Martin Kimm as a mitigation strategy to working in the ditch. They are willing to follow through with what they said they were going to do. He stated that there is no document that sets the ditch easement width. It is a prescriptive easement, just to use and maintain the ditch.

*Mark Easton, developer:* He stated that they may not have done everything exactly the way they needed to. They thought that their agreement with Martin Kimm included the Carr and Grimshaw ditch. They will do any reasonable thing to come to an agreement. They got an agreement on the first crossing. They could not come to an agreement about the other crossings. They would have fixed the first crossing if they had known it was not flowing. They diverted the ditch to keep the water flowing.

*Derinda Grimshaw, 2000 Nixon Gulch:* She stated that they have never been reached out to for permission to interfere with the ditch. She would have been willing to work with people. The ditch is backing up at the new culverts. It is concerning to her that they were not included in the conversation before any work was done. She sees work being done and covered up quickly just to get it done.

*Jennifer Carr, 200 Lund Lane:* She stated some points in opposition to what the developers had said. 1. She has a written easement on the plat of her property from the Clerk and Recorder that shows it is a 20-foot easement. 2. Martin Kimm cannot give permission on their arm of the ditch, only the Carrs and Grimshaws can. The developer did not get permission. 3. There is a Montana Law regarding easements, they must have the written permission according to the law. 4. The ditch was flowing to the sewer hookup area with no clay layer and no bentonite so it went straight down. 5. The Cease and Desist violation was when the developer ripped into the easement 7.5 to 12.5 feet, not just the ditch. 6. When the Carrs met with Watson Irrigation, the meeting was taken over by the developer. They will have the grade shot by another contractor to do their due diligence. The developers' cure for the culverts is to rip the entire ditch deeper to match the culverts. The irrigation company offered a solution to pipe the length of the ditch. 7. Moving the water hydrant did violate the TRO or the Cease and Desist. 8. The developer admitted that the culverts are submerged. 9. Jennifer Farve has a conflict of interest and would not accept service of the TRO, yet she is here representing the developer.

She also informed the Council of the discussions that she had with the developer prior to any work being done. They had verbally agreed to allow the one sewer crossing. The developers never came back to get permission for the other 2 crossings. The ditch averaged 21.5 inches wide. It is now 42.5 inches wide up to 10 feet wide. They don't have a lot of water and the narrow ditch helps them get the flow they need.

*Wendy Meier, Pioneer Crossing:* She stated that they have expressed some concern about the development. They see that the developer is moving a lot of dirt many times. She asked the developers to please try harder to be good neighbors by not arguing loudly and shining lights at 6 am. Water is important to everyone.

*Corrie Lucier, Pioneer Crossing:* She stated that she walks the trails a lot. She ran into the Carrs one day and saw that all the construction equipment was blocking the area of the ditch here the diversion was located, preventing access to the ditch.

*Joe Mancuso, 113 N 4<sup>th</sup> St:* He noted that everyone is at a crossroads, as is the entire Town. Oversight is necessary. He admonished everyone to take a step back and assess everything said tonight, get together and create a solution.

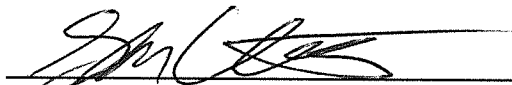
Mayor Clements stated that the Town Attorney advised that the Council take no action until she can review everything.

Councilwoman Mancuso stated that the Town does not want to set a precedent that it is lenient, we need to use the arm of enforcement. The purpose of the meeting was to bring transparency. This is serious and should be addressed. She is concerned with the preliminary plat conditions.

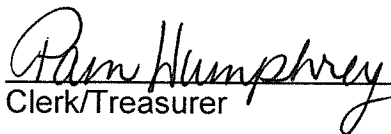
Councilman Powell thanked everyone for coming to the meeting. He did not know the issues or know both sides of the story. The Council wants to represent the community and make sure that the laws are followed.

**ADJOURN:**

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



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Mayor



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Clerk/Treasurer

**TOWN OF MANHATTAN  
Regular Meeting  
October 13, 2022  
MINUTES**

Mayor Glen Clements 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, Josh Powell, Betsy Mancuso, and Morgan Taylor. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Town Planner Scott Hazelton, Chief of Police Dennis Hengel, and Clerk/Treasurer Pam Humphrey. Sixteen members of the public were present.

**PUBLIC COMMENTS:**

*Derinda Grimshaw, 2000 Nixon Gulch:* She stated that she is here to represent the Carrs and Grimshaws, they would like know what the Town is doing about the violation of the Cease and Desist Order and if the Town Engineer has been there to inspect. Written comment was read from Blackhawk with an update to the efforts they have made to mitigate the noise from the railroad spur.

**POLICE DEPARTMENT UPDATE:**

*Dennis Hengel, Chief of Police:* He stated that the new officers and working out well. He updated the Council on their trainings. He relayed a letter and emails from citizens praising the officers. Officer Pat Harris was awarded a Life Saving Award from Chief Hengel for helping to save life in the area.

**GALLATIN COUNTY REST HOME MILL LEVY PRESENTATION:**

*Darcel Vaughn, administrator at Gallatin County Rest Home:* She explained what the rest home provides for the County. They are asking for a 9 mill levy for the rest home. Medicaid is inadequate to cover the costs of caring for the residents. It is the only skilled nursing facility in Gallatin County. The Commissioners realize that everyone is taxed. If the state will provide more Medicaid, the entire 9 mills will not be levied. She encouraged everyone to talk to the legislators. Currently, Medicaid only provides \$213/day for residents. The cost to care for each resident is at least \$100/day more than that amount. Many skilled nursing facilities in MT are closing or going to assisted living facilities. The full cost will be \$12.15/year for every \$100,000 assessed value. The mill levy will go toward food, capital outlay, medical supplies.

**CONDITIONAL USE PERMIT – CASINO AT 204 W. MAIN ST:**

Clerk read public hearing notice

**Public Hearing**

*Scott Hazelton, Town Planner:* He recommended approval with the condition that the applicant shall abide by all representations made by the applicant, either through testimony or materials submitted in the application and hearing process, unless the governing body deems otherwise.

No public comments.

### **Discussion/Decision**

Motion- Mancuso; Second- Powell; Vote- Unanimous: Motion passed to approve the Conditional Use Permit for a Casino at 204 W Main St, owned by Craig Seguin, The Manhattan Saloon with the condition that the applicant shall abide by all representations made by the applicant, either through testimony or materials submitted in the application and hearing process, unless the governing body deems otherwise.

Council discussed that the Planner's staff report recommends approval. This is more of a formality because of the change of ownership. All the criteria are met for the Conditional Use Permit.

### **BOUNDARY LINE RELOCATION- PIONEER CROSSING OPEN SPACE/LOT 6:**

Motion- Mancuso; Second- Taylor; Vote – Unanimous: Motion passed to table the item until the next meeting.

*Scott Hazelton, Town Planner:* He recommended tabling the item until the applicant is present.

*Cable Jordan, 26 Nellie Court:* He stated that he lives across from the proposed amendment. He was under the impression that the lot was open space when he moved in.

*Kyle Scarr, Town Engineer:* He stated that the lot was platted from the beginning but had a condition that it could not be developed until Phase II was finished. They are creating more open space and making the original lot smaller.

*Morgan, 340 Northwest Passage:* He stated that they were always told them that it is green space and will be irrigated. They don't feel that they were told the whole story from the beginning.

*Brandon Yung, 310 Northwest Passage:* He agreed that they were told that lot was green space.

### **WRRF PROJECT UPDATE:**

*Kyle Scarr, Town Engineer:* Tomorrow is the 90% submittal deadline. Then they will finish the DEQ submittal. They have been having team meetings and funding meetings. They are trying to talk to Amsterdam/Churchill regarding funding and speaking with DEQ regarding plant upgrades. The DEQ should be able to respond within the 60-day review time. The Discharge Permit is a little behind still, but hopefully will move along on schedule also. Bidding will be at the end of this year.

Inflation was discussed.

### **MAYOR'S REPORT:**

Nothing

### **CONSENT AGENDA:**

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

**Town Licenses:** Bridger Mountain Plumbing, Blackmore Electric, and Suede Hair Studio.


**Approval of Minutes:** Regular Meeting minutes from September 8, 2022 and Special Meeting minutes from September 28, 2022.

**Claims:** Dated 09/09/22 – 10/13/22 totaling \$ 334,161.00

**ADJOURN:**

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

  
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Mayor

  
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Clerk/Treasurer



**TOWN OF MANHATTAN  
Regular Meeting  
November 10, 2022  
MINUTES**

Mayor Glen Clements 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, Josh Powell, Betsy Mancuso, and Morgan Taylor. Also present were Town Attorney Jane Mersen and Clerk/Treasurer Pam Humphrey. Town Planner Scott Hazelton was present by Zoom and phone. Eight members of the public were present.

**PUBLIC COMMENTS:**

None

**EMERGENCY MANAGEMENT PLAN:**

Motion- Engbretson; Second- Taylor; Vote- Unanimous: Motion passed to adopt the Emergency Management Plan and allow the mayor to sign it.

*Patrick Lonergan, Chief of Emergency Management and Fire:* He stated that this is a statutory requirement of all political subdivisions. It lines out high level strategic rules and responsibilities in accordance with Title 10 MCA. Political subdivisions need to spell out the emergency process for FEMA requirements. Most of the updates this year are clerical, MCA linked, websites, etc. The plan is required to be updated every five years.

**MANHATTAN ORCHARDS/DITCH UPDATE:**

*Jane Mersen, Town Attorney:* She stated that the parties ended up in a lawsuit. The Court has issued an order. Mediation was on Tuesday October 8, 2022. She and Kyle Scarr attended. They came to a tentative agreement. They will put the litigation on hold for 60 days. The developer will be coming to the Town in December with some stipulations. She is meeting with Richard's attorney and has had several phone calls and emails regarding the roads opening. They will have something by next week.

**GROWTH POLICY PLAN:**

Motion- Powell, Second- Mancuso; Vote- Unanimous: Motion passed to authorize the Town Attorney to negotiate something with Logan Simpson.

Motion- Mancuso; Second –Engbretson; Vote- Unanimous: Motion passed to direct the Town Planner to pursue Option 1 and provide more information and financial details.

*Mayor Clements:* He stated that the consultant hired to do the Growth Policy did not provide a complete document. He would like to explore options to get the document finished.

*Jane Mersen, Town Attorney:* She stated that she would recommend another consultant option and pursue reimbursement from Logan Simpson.

Town Planner, Scott Hazelton submitted three options for consulting to finish the Growth Policy.

Written comment from Planning Board member Kristen Swenson was read encouraging the Council to use the current Growth Policy and take into consideration the proposed Growth Policy and come up with a useable document.

*Shawna Taylor, 106 N 2<sup>nd</sup> St.* She asked what the 3 options from the Planner were and what public engagement strategies were used by Logan Simpson.

**DECEMBER MEETING DATE CHANGE:**

Motion- Powell; Second- Taylor; Vote- Unanimous: Motion passed to change the December meeting date to Wednesday, December 7, 2022.

**MAYOR'S REPORT:**

- He gave a WRF update. The 90% design document has been finished and submitted to DEQ. The engineers will give a budget update. The project is on schedule.

**CONSENT AGENDA:**

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


**Town Licenses:** Summit Air Heating and Cooling, LLC and Onsite Energy, Inc.

**Approval of Minutes:** Regular Meeting minutes from October 13, 2022.

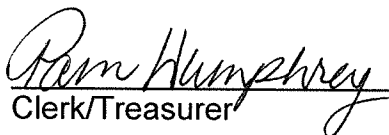
**Claims:** Dated 10/14/22 – 11/10/22 totaling \$ 374,177.87.

**ADJOURN:**

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



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Mayor



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Clerk/Treasurer

**TOWN OF MANHATTAN  
Regular Meeting  
December 7, 2022  
MINUTES**

Mayor Glen Clements 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, Josh Powell, Betsy Mancuso, and Morgan Taylor. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Town Planner Scott Hazelton, and Clerk/Treasurer Pam Humphrey. Nine members of the public were present.

**PUBLIC COMMENTS:**

*Kristen Swenson, 9501 Frontage Road:* She invited all to attend the Association of Gallatin Agricultural Irrigators annual meeting. It will be held on December 14<sup>th</sup> at 6:30 pm for social hour and the meeting will start at 7:00 pm at the Manhattan Stockman Bank. She gave some irrigation information and the mission of the Association.

**CONDITIONAL USE PERMIT – ACCESSORY DWELLING UNIT AT 109 N 7<sup>TH</sup> ST:**

Clerk read Public Hearing Notice

**Public Hearing**

*Scott Hazelton, Town Planner:* He stated that the ADU is mostly built. They have a building permit. His condition of approval would be that Impact fees will need to be paid before a Certificate of Occupancy is issued.

*Written Comments: Sharon Meirhofer, 107 N 7<sup>th</sup>:* In favor.

**Discussion/Decision**

Motion- Powell; Second- Mancuso; Vote- Unanimous: Motion passed to approve the Conditional Use Permit Application for an Accessory Dwelling Unit located at 109 N 7<sup>th</sup> St, owned by Derek Wilson, with the condition that impact fees be paid before the certificate of occupancy is issued.

**ORDINANCE NO. 23-001 – PROHIBITING MARIJUANA BUSINESSES:**

**First Reading**

*Jane Mersen, Town Attorney:* She stated that this is the ordinance that was on the November ballot. Exhibit A is canvas of votes.

Second reading and public hearing was set for the January meeting.

**PRELIMINARY PLAT EXTENSION – MANHATTAN ORCHARDS PHASES 1 & 2:**

Motion- Engbretson, Second- Taylor; Vote-2 for (Engbretson, Taylor), 2 opposed (Powell, Mancuso), Mayor broke the tie in favor: Motion passed to approve the preliminary plat extension for Manhattan Orchards Phases 1 and 2 for a period of one year to expire on December 31, 2023.

Findings: Due to reasons outside of the applicants' control, they were unable to complete the work on the preliminary plat. Council will grant a one-year plat extension.

*Jennifer Farve, Attorney for the applicant:* She stated that the project is 90% completed. She provided a map that contained all completed infrastructure. All water, sewer,

stormwater, and electrical are finished. They are asking for an extension for preliminary plat for one year to pursue completion of phases one and two.

*Mark Easton, developer:* He stated that the plan to finish most of the project by April and May of 2023. They have the paving, trail, and intersections to finish up.

*Councilwoman Mancuso:* She asked why concrete barriers were placed on Tiger Lane after the work was done on the pavement there which prevented the public and emergency vehicles to use that road? She asked why concrete barriers instead of movable signs were used. This created a safety issue for the public and emergency responders.

*Casey Bennett, MO-MT:* He stated that the work on the intersection to Crispin was paved. It is not paved from Crispin to Nixon on Tiger Lane. They could not complete the intersection at Nixon Gulch and Tiger Lane. He stated that the work was not completed. The road was not opened because of public safety concerns. He stated that there was a one foot drop off where the pavement met the sub-base gravel road. They couldn't do work in that area. They then made some gravel modifications to open the intersection back up.

*Kristen Swenson, 9501 Frontage Road:* She stated that she has concerns regarding the project. She asked how many times there has been a plat extension for this project. She referenced the summary of improvements remaining to be completed. lot almost done stuff, read wording of request. She read the reasons for delay. She would recommend that the reasons for delay need to be satisfied prior to extension approval. She stated that she does not believe that the ditch issue has been answered. She asked if the Council could request documentation that an agreement has been reached. She is aware of the situation as a Baker Ditch user. She is concerned about the closure of that situation. She is not aware that the issue has been settled.

*Councilman Engbretson:* He asked if the ditch issue has been resolved to complete the construction to Nixon Gulch and complete those intersections.

*Jennifer Farve, developer attorney:* She stated that the matter has been settled. The agreement is confidential.

*Jane Mersen, Town Attorney:* She agreed that she has also been informed that was the case. Each of the parties' attorneys have indicated to her that an agreement has been reached. The written agreement with the ditch owners will have to be presented at Final Plat application.

*Councilwoman Mancuso:* She asked how the issues were out of the developer's control.

*Jennifer Farve, developer attorney:* She stated that they were not able to move forward with the continuation of the asphalt and work within and near the ditch due to the litigation (TRO) and the Town's Cease and Desist order. The timing of the issues and when the batch plant closes brought the project to a halt. The litigation was settled with no indication of wrongdoing. It doesn't matter if they did or did not do anything wrong. They did not anything to cause the delay.

Council discussion included that it appears an agreement has been made that satisfied all parties.

### **PRELIMINARY PLAT EXTENSION – MANHATTAN ORCHARDS PHASES 3-7:**

Motion- Engbretson, Second- Taylor; Vote- 3 for (Powell, Taylor, Engbretson), 1 against (Mancuso): Motion passed to approve the preliminary plat extension for 3 years to expire December 31, 2025.

Findings: They are unable to complete the project due to lack of sewer capacity. These factors are out of the developer's control.

*Steve Barrett, attorney for developer:* He stated that they are asking for a 3-year extension. He gave an update on what has been done so far. There is no sewer capacity at this time. They are working on an easement with the Town for the current sewer project. They cannot continue work without sewer capacity. There are 322 lots in phases 3-7. Sewer has never been available for phases 3-7.

*Councilman Powell:* He asked how many times extensions have been granted.

*Councilman Engbretson:* He confirmed that the block of time is an estimate.

### **WRF PROJECT UPDATE:**

*Kyle Scarr, Town Engineer:* They are still in the DEQ review period. He is optimistic that it is on track.

Mayor Clements added that they are on time and on budget

### **GROWTH POLICY CONTRACT – HYALITE**

Motion- Mancuso; Second- Powell; Vote- 3 for, 1 against (Engbretson): Motion passed to move forward with SR1-1 to combine Logan Simpson's draft with the adopted Growth Policy of the Town of Manhattan.

*Scott Hazelton, Town Planner:* He stated that there are some things in draft from Logan Simpson that need to be worked on. He submitted some options for what can be done. It needs more work to be updated for what the Town citizens and Council want for how the Town will grow. It is more work to make it a usable document for the Town's growth. He outlined the options that Hyalite proposed. He felt it was realistic to get the work done in a timely manner.

*Kristen Swenson, Planning Board member:* She asked if the proposals could be summarized for the audience. She asked about costs and requested to merge the two and support the first option.

*Alissa Farley, 205 S 5<sup>th</sup>:* She asked about the surveys done and information collected by Logan Simpson. She asked why there needs to be more done. She asked about melding the old policy with the new draft. She asked if there are still relevant things from a 2004 document and if it is normal to use that information instead of doing a whole new policy.

*Jane Mersen, Town Attorney:* She has read through the Planning Board minutes for last 3 years to get an idea of the reports that were made to the Planning Board from the Steering Committee. It sounded like there were hundreds of responses and results. They did over 80 stakeholder interviews, but none of that information is in the report. The Town needs to dig further into getting that data. She suggested a work session if needed. The new policy needs to be adopted by March or April to be ahead of the changes in State legislation regarding Growth Policies.

*Councilwoman Mancuso:* She stated that she prefers option one to merge the two documents. The Logan Simpson draft did not include all of the work that was done and data collected.

*Lindsay Schack, 302 N Broadway, Planning Board and Chair Steering Committee:* She stated that there is a lot of data gathered, meetings held, and work done in the last two years. A lot of the public engagement information has been done and that the documentation should be somewhere. She asked what is missing from the phase where they gathered all the information. There were over 100 hours of volunteer time that went into the new Growth Policy. She asked that the Council not discard the work that was done and redo it instead. She would like to see a consensus to move on with the Policy. There was already a lot of effort that has gone into it. She would like the reasons for wanting to change the draft to be explicitly stated so that everyone understands. She does not know where the documentation of the community meeting is, but it was recorded and should be available from Logan Simpson.

Mayor Clements reminded everyone that the Logan Simpson draft does not meet State Law requirements. The data that is not in the draft needs to be added. The issue is that there is no documentation that shows that the draft meets the needs of the Town and it needs to be fixed.

*Clerk/Treasurer Humphrey:* She reminded everyone that the current Growth Policy has been looked at over the years. Surveys were done and questions asked and the Planning Board at those times chose to keep it as it was. They did not revise it. They have changed the jurisdictional map and land use but chose to keep the document in place after the previous reviews. Logan Simpson was directed by the Request for Qualifications that spelled out exactly what was expected of the firm that got the project. They did not do many of those things and they did not meet the requirements of State Law.

*Scott Hazelton, Town Planner:* If the documentation of the interviews and meeting minutes can be obtained, then Hyalite's costs can be reduced because less work will need to be done. He will put in a request to Logan Simpson for the information needed. Council discussed what is missing from the document. They discussed that they do not want to scrap what has been done, just merge it with the existing one and bring it to where it meets the needs of the Town and the requirements of the law.

#### **MAYOR'S REPORT:**

He has been receiving complaints about road conditions in Town. He reminded everyone that the Town Public Works has been doing the best that they can. They are a crew of 3, and sicknesses and trainings have been a part of how much they can get done in a day. They are doing the best they can and doing a great job.

#### **CONSENT AGENDA:**

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

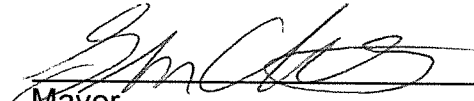
**Town Licenses:** Harvest Moon Coffee Shoppe and 406 Brewing.

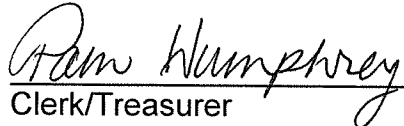
**Approval of Minutes:** Regular Meeting minutes from November 10, 2022.

**Claims:** Dated 11/11/22 – 12/07/22 totaling \$ 205,044.29.

**ADJOURN:**

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

  
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Mayor

  
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Clerk/Treasurer