

**TOWN OF MANHATTAN
Regular Meeting
September 10, 2020
MINUTES**

Mayor Glen Clements called the meeting to order in the Town Meeting Room, at 207 S. 6th St. at 7:00 P.M. Present were Council Members Callie Hamilton, Betsy Mancuso, Dan Ryan and Greg Schack. Also present were Town Attorney Jane Mersen, Town Engineer Kyle Scarr, Building Official Dave Rowell, Police Chief Dennis Hengel, Public Works Supervisor Jeff McAllister and Clerk/Treasurer Pam Humphrey. Twelve members of the public were present.

PUBLIC COMMENTS:

Alissa Farley, 205 S 5th: She read an email that she had sent to the Town requesting that a virtual meeting option be on the October agenda.

Dona Gonzalez, 315 E Gallatin: She also read an email that she sent to the Town and requested that a virtual meeting option be put on the agenda for the October meeting.

Gretchen Engbretson, 206 S 5th: She wanted to encourage that the virtual meeting option be added to the agenda for the next meeting.

Glee Dunbar, 202 S 5th: She also supported the virtual meeting option be added to the agenda.

Buck Buchanan, 315 N 5th: He also encouraged the Council to put the virtual meeting option on the agenda for the next meeting. He relayed how he has used Zoom meetings in other situations.

Tony Drypolcher, 208 S 3rd: He spoke in favor of the Zoom idea. He stated that since the presentation that he did on quiet zones, he has done some research to increase pedestrian safety. He explained one additional option for pedestrian safety. He asked if there is interest of the Council to pursue a quiet zone.

Mayor Clements relayed that the Council cannot make a decision about support for an item without it being on the agenda. He will consider putting the item on the agenda for the October meeting.

Alissa Farley, 205 S 5th: She stated that she supported a discussion about the quiet zone and would like to see it on the agenda. She suggested having a committee to look at all train issues.

RESOLUTION NO. 20-015 – BARSAA GAS TAX ALLOCATION:

Motion- Schack; Second- Hamilton; Vote- Unanimous: Motion passed to approve Resolution No. 20-015, a resolution of the Town Council of the Town of Manhattan requesting distribution of Bridge and Road Safety and Accountability program funds.

DRAFT AMENDED ORDINANCE ALLOWING EXEMPT WELLS FOR IRRIGATION:

Mayor Clements stated that the Town is considering irrigation wells to ease the pressure on the public water supply.

Jane Mersen, Town Attorney: She presented a draft ordinance amendment. She explained what would be amended in the code to address the proposed changes.

Landscaping was added to the current exempt well portion of the code. The Council was asked to read the ordinance and make any changes or suggestions and the ordinance can be set for public hearing and a first reading at the October meeting.

Kyle Scarr, Town Engineer: He stated that outside the irrigation season, the Town uses approximately five million gallons of water per month. During the irrigation season, it varies from year to year, but has gone up to twenty to thirty million gallons per month. In the winter it is around 60 gallons per day per household, and up to 130-150 gallons per day in the summer months. The DNRC has laws for exempt wells that will also have to be met by people to qualify to do this.

Council discussed when the Town would be able to see increased capacity for growth. They also asked if it is an expensive thing for people to do. Mayor Clements added that this is a good option for new construction. Cross contamination was discussed.

Dave Rowell, Building Official: He suggested having the wells be permitted by the Town so there is a record of who has them and where they are located on the lots. He is also concerned about cross contamination.

Buck Buchanan, 315 N 5th: He asked who would be liable if someone was guilty of contaminating the system.

Ell Bennett, 306 Pine St: He reminded the Council that this was discussed years ago by the Council and suggested that it should be researched further.

DRAFT AGREEMENT WITH PIONEER CROSSING FOR WATER CAPACITY:

Kyle Scarr, Town Engineer: He explained that the Town and Pioneer Crossing are looking at an agreement to use the wastewater effluent to mitigate water for certain times of the year in order to permit the Pioneer Crossing well. Groundwater discharge is a part of the treatment plant PER that would provide the process for mitigating the effluent. The agreement outlines some things that Pioneer Crossing has offered to do for use of the Town's wastewater effluent mitigation. They have offered to help in the permitting and change application for the water right, some engineering design to help in the wastewater treatment design, and the installation of three wells in the Town's parks at a maximum cost of \$50,000. That would offset to reduce the amount of water being treated and put on the park.

Jane Mersen, Town Attorney: She explained that Pioneer Crossing has agreed to fund up to \$100,000 toward the engineering for the application for the groundwater discharge permit. They have agreed to fund up to \$50,000 for three irrigation wells for the Town. They have agreed to assist the Town in its efforts to get the modification to the beneficial use permit for the Pioneer Crossing well and for the change application to use that water in Pioneer Crossing and throughout the Town. The Town, then has agreed to issue a letter of capacity for the water system for Phase IIB in Pioneer Crossing. Phases III and IV will require more calculations outlined in the exhibits to the agreement to see if there is enough effluent for the mitigation water. Pioneer Crossing has agreed to a five-year Letter of Credit the Town can draw against if the payments are not made as agreed.

Bill Luehrs, Pioneer Crossing: He stated that currently the DNRC will allow the Pioneer Crossing well to be turned on for domestic use providing they get temporary waivers from Trout Unlimited and Fish Wildlife and Parks until the well is fully permitted. The well

can currently be used for fire protection. The wells in the park will save millions of gallons of water. Shared irrigation wells will save 8 million gallons in Phase III and 6 million gallons in Phase IV. That also decreases the amount of mitigation required by DNRC. The groundwater discharge is needed for the well permit, the Town needs it to meet the discharge permit requirements.

Mayor Clements added that the agreement is still a draft agreement. It will be on the agenda for the October meeting for a final decision. Jane Mersen and Kyle Scarr will address questions and concerns before the next meeting.

DISCUSSION ON WATER AND WASTEWATER CAPACITY ALLOCATION:

Jane Mersen, Town Attorney: A draft policy was not available at meeting time. The bottom line is that the Town needs to come up with new water sources and then decide how to allocate those. The ordinance for irrigation wells is one step. The Pioneer Crossing agreement is another step. The Capital Improvement Plant should be looked at to see if the Town can drill another well and get a permit. Building another storage facility could help. The town needs to decide how to allocate water and wastewater capacity.

Kyle Scarr Town Engineer: Capacity is the main issue, along with conservation of water. He explained how the state requires what needs be assessed. Currently the Town's water use has drastically increased since the water tower was put in and previous studies were done. The Town is officially out of capacity at the wastewater treatment plant. They did an analysis of the water system as it is now. There is currently capacity for roughly 200 single family homes with the current water situation. He explained that there is currently no sewer capacity for new developments. He explained the phases and timing of the treatment plant upgrades and funding applications. Phase One may slightly increase treatment capacity. Phase Two would add the additional trains to increase the treatment capacity. He stated that the Town has discretion, but lots finally platted in Town and already approved would not require capacity letters. He cannot issue new sewer capacity letters for developments, subdivisions, or project that would require a capacity letter or certification that there is available capacity.

Council discussed annexing Wooden Shoe Lane and if the wells there would add to the water capacity. Options for allocating the water capacity could be first come first serve or be reserved for certain areas or developments. Wastewater capacity was discussed.

Mayor Clements: He explained how they are dealing with the DEQ regulations at the treatment plant. Currently there are a couple of violations each year. The Town will usually get a letter from the DEQ asking for an explanation and how it will be fixed in the future. Consistent violations may result in enforcement action. The Town has upgrades planned, so he does not anticipate penalties.

He also explained that the original equipment at the plant failed twice as fast as it was supposed to. The original equipment treated the sewage better than the replacement aeration system does. Discharge standards have also increased quite a bit since the original plant was designed.

Dave Rowell, Building Official: He asked if there are alternatives. He asked if he needs to stop issuing building permits. Going forward, he would like the Town to have a form with the capacity information on it signed by the Mayor or Council that all builders have a

copy of in their files. He wants something in writing with the building permit that states that there is water and sewer for that lot.

Discussion about the form included who would be able to sign the form and what information they would use. When developments were approved, they should already have capacity letters. Council discussed that the Town is responsible for assuring the builders that they can build and not worry about water and sewer.

Engineer Kyle Scarr offered to create the form for new builds, along with the limits that the Town faces for new projects. The Council agreed that would be a good step to take.

MORELAND MILLS CONDO CERTIFICATION OF EXEMPTION FROM SUBDIVISION REVIEW:

Motion - Hamilton; Second- Mancuso; Vote- Unanimous: Motion passed to authorize Dave Rowell, the Building Inspector to sign the Certificate of Exemption from Subdivision Review for Moreland Mills Condos.

Jane Mersen, Town Attorney: She created the form based on ones used by other municipalities. She has designated the Building Official as the signer. She suggested getting a process in place where more complex projects will have to file an application for this and then have the Council authorize the Building Official to sign it.

Jim DeJong, owner of Moreland Mills Condos: He stated that he bought two lots in the Farmstead three years ago. He was approved to build condos on the lots. He has an plot plan approved by the Farmstead review committee. He is planning to build them in phases. He has one triplex built and is has an offer for one unit in the next building. He is from Manhattan and wants to build owner occupied condo units. His buyers are threatening to drop out of the sale because of the Municipal Facilities Exclusion issue. He will complete the next 3 units by June, then maybe six units the next year. There are seventeen units in total. He is being told now there is no sewer capacity, but he was approved to build the units because the Farmstead was approved and given sewer capacity many years ago. He is planning duplex condos on the second lot to be appealing on the corridor into Town. He has the roads into the units built and his cost into the first building. He needs to sell the units to be able to pay the costs involved with building. DeJong stated that he wants to work with the Town and figure out how he can meet the regulations and keep moving on his approved project.

Jane Mersen, Town Attorney: She indicated that she had sent the signed MFE to Mr. DeJong's attorney earlier in the day. The Town Engineer signed the MFE for the current building that is built.

Kyle Scarr, Town Engineer: He explained that a Municipal Facilities Exclusion is required for condos. One item on the MFE is certifying if they have water and sewer capacity. The Town has an obligation to provide water and sewer to currently platted lots. A new capacity letter, or MFE, cannot be signed for anyone at this time.

The Town Attorney and Town Engineer will check to see if the capacity letter for the Farmstead would suffice as the capacity letter for this project. Council advised Mr. DeJong to hold off on the next building until they hear about the Farmstead capacity letter.

FIREWORKS:

Councilwoman Betsy Mancuso: She relayed that she has talked to Mr. Bennett who spoke at a previous meeting about the types and amounts of fireworks used around the 4th of July. Belgrade was going to address it this year, but because of the Covid, they are going to table it until the following year.

Ell Bennett, 306 Pine St: He stated that fireworks are now like military munitions. They are loud, dangerous, dirty and potentially deadly. Professionals that use the same fireworks have to have licenses and insurance. He is afraid that something will happen and the Town will be held liable for allowing them. His neighbor hosed down things to keep them from starting on fire this year. Cleanup does not seem to get done until months after the Fourth. Many people are drinking while lighting fireworks also. He would suggest limiting the days and times of day that fireworks can be set off in Town. He suggested a no fee permit with information on it. There has to be a penalty and enforcement.

Council and audience members discussed talking to the County to limit the size of explosives and researching what other communities outside of the Gallatin Valley do. Enforcement was discussed, as well as having a permit for setting off fireworks. Banning fireworks altogether was also discussed.

Councilwoman Mancuso offered to put together a committee to research ideas. The item will be on a future agenda.

CONSENT AGENDA:

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

Home Occupations: Glee & Ed Dunbar – Mental Health Counseling Office, 108 E Gallatin.

Town Business Licenses: Life Support Coaching LLC, Norplex Advanced Composites, Inc., Trumptana LLC, Rowan Nyman Photography LLC, and Manhattan Remodels and Construction LLC.

Approval of Minutes: Regular Meeting minutes from August 13, 2020.

Claims: Dated 08/14/20 – 09/10/20 totaling \$ 179,052.35.

MAYORS REPORT:

- There is a new employee at the treatment plant, who will be split with public works also.
- Public Works reports that on September 21 and 22, the County contractors will be hauling large I-beams, there will be traffic issues on Nixon Gulch Rd on those days.
- The State ADA sidewalk project is complete.
- Police department report was also received.
 - o Chief Hengel added that Daryl Rogers has been hired by the County, and the new Manhattan officer will start October 7, 2020.

ADJOURN:

Motion- Mancuso; Second- Schack; Vote- Unanimous by roll call vote called by the Mayor: Motion passed to adjourn the meeting.