

**TOWN OF WHITEHALL**  
**P. O. BOX 529**  
**WHITEHALL, MT 59759**  
**July 12th, 2021**

The Whitehall Town Council held their regular meeting in the Council Chambers at 207 East Legion Street, Monday, July 12th, 2021.

**PRESENT:** Council Members: Katy James, Pat Peterson, Roy McBride, Shawn Hoagland, Linda Jung, Bill Lanes, Treasurer Allissa Christensen and Mayor Mary Janacaro- Hensleigh.

**VISITORS:** Kory Klapan, Joe Grandvold, Jim Buterbaugh, Liz Pullman, Brendan Lounsbery and Jared Brown.

Mayor Mary Hensleigh called the Council Meeting to order at 7:00 P.M.

Roll Call was taken. All council members were present.

The Pledge of Allegiance was recited.

**IV. AGENDA APPROVAL:**

Katy made motion to approve the Agenda with Shawn seconding.

THE MOTION PASSED UNANIMOUSLY.

**V. APPROVAL OF MINUTES:**

Katy motioned to approve the April 2021 minutes with Linda seconding.

THE MOTION PASSED UNANIMOUSLY.

**VI. REPORTS:**

Mayor's Report:

Mayor Mary: I want to thank everyone for coming. I want to wish Lori Young a Happy Birthday, tomorrow is her birthday so happy early birthday Lori. The pool is doing very well, we have not had to close because of rain or lightning and about the high temperatures, it has just been a great place for the kids to be. I want to remind everyone for watering their lawns to do even and odd days depending on your house number. We are in a drought and we do need to conserve. There was some confusion about the garbage over the 4<sup>th</sup> of July weekend. I will have Kory in his report explain it better with our new service what we will be doing there. I just want to remind everyone of upcoming events. This weekend is the Fiber Festival at the Copper K and that is always a fun time. Next week we will be busy getting ready for Frontier Days which is the 23<sup>rd</sup> and 24<sup>th</sup>.

Officer's Reports:Attorney Report:

Ed: We are actually kind of quiet right now on the prosecution side of things. We have a couple of DUI's and a couple of partner/ family member assaults and our hope is that all those cases will be settled and get resolved one way or another. On the civil side of things, I have put together the changes the Council instructed on the law enforcement contract and sent that out to the Sheriff and the County Attorney and I am just waiting for a response back from them right now.

Clerk / Treasurer's Report:

Allissa: I finished up the audit so, we are all caught up on that now. I have been working on the budget all month as well as claims and revenue. Court is looking good I am finally getting Full Court Enterprise figured out. If you have any questions my door is always open.

Public Work's Report:

Kory: Sewer: We have about two more feet to discharge that is all. That is about six turns of the pivot and then we will be out of water. We did have DEQ come in and do an audit on our sewer lagoon. They said things are going great. We had Rural Water come in and help us sludge judge the sewer lagoon to check how many solids we have in the bottom of the lagoon, it is a little bit concerning I have it here if you all want to read it, I'm not going to read the whole thing. Cell 1, we are at 17.8 percent sludge, when it hits 20 it's at the point. We need to start doing something so, we are pretty close. I went over some stuff with you all that we applied for grants for ARPA funds for Headworks that will help with that. We may have to consider putting some bacteria in there to help reduce some of the sludge. Water: we are pumping a ton of water a day on an average of 550-650 thousand gallons a day. Parks: We are having trouble with the pump that sprinkles Whitehall and Legion St. They are coming tomorrow to pull that and see what is going on with it, there is just no pressure. Cemetery: we dug 3 graves. We fixed a ton of sprinkler heads, and so far, it's been able to keep it pretty green there. Streets: I am going to borrow the County to do some of our bigger potholes on some of these intersections with a velocity patcher, we will

try to do that in about two weeks. We spent a lot of time working on ARPA funds. We have spent a ton of time on the annexation west of Town. We put out 9 loads of weed spray last month and had 7 locate tickets. Garbage: our service we contract with for garbage, they only observe holidays that fall within the work week. So, holidays that fall on the weekends are not observed on Monday. So, to keep their routes with the other towns they have they try to stay on schedule when the holiday is not on a week day. So, if the holiday falls on the weekend, expect regular garbage. If it falls on a week day, then it will be shifted.

Fire Chief's Report:

Joe: I have been gone for about 4 months but, I am back now. We have a lot of stuff going on. We have had 2 calls in town, we had a gas call and then we had a call today for a sewer leak. We had 11 car accidents, 9 grass fires, 3 car fires and 2 structure fires. It is very dry out there and I can not stress enough to be cautious. We just got the paper work back on the audit and we did very good on that. We stayed a 5 that is right in the middle, there are some things I can do to better, but it's a pretty average spot to be and on our last one, we were a 3 so, we did go up. If anyone would like to volunteer for the fire department we are in need. On the 24<sup>th</sup> for Frontier Days, we are having a pancake breakfast. It will start at 6:30 am and go until 10:00 am. We will be raffling off a quilt made by Amy French with Whitehall school colors. We will also be raffling off a fire disc and we will start selling raffle tickets for guns that we will draw for in December. I just talked to the grant writer about the AFG grant a couple of days ago. The first round of the grant we did not get but she said they will keep giving the grant till the end of September so, we are still in the running. If we do not get a grant by October 1<sup>st</sup> the County wants to know if we would want to get the SCBA's the same time as them to get the cost down.

Shawn: Joe do you know the cost on those?

Joe: They are anywhere from \$10,000 to 12,000 depending on what you get.

Shawn: For each one?

Joe: Yes. We are in stage 1 fire restrictions so, there is no garbage or debris burning. They still are allowing campfires on private property which has to be in an approved fire ring and no taller then 3 feet. If you cause a fire elsewhere you can be held liable for that. We received a defibrillator from the ambulance so we will do some training on that real soon. I am really happy to share that we only had 1 firework related fire this year so, good job Whitehall. Today, we had MES fire come in and do flow tests on all the SCBA's and they all passed. Just a quick note, I want to share from the County DES officer. We should all be aware of what we are facing this summer. We have been gathering data to compare how this season's fire season compares to the last one. The weather data is more difficult to find but the NRCC has some more data to shed some light on where we are. The Northern Rockies is in a state level PL3. This is the first time in 21 years we have had data available to be in this preparedness level in the Rockies. The last year was in 2012 and that year we had 125 fires over 100 acers in size and we lost 464 structures.

Sheriff's report:

No report.

Committee / Board Reports:

Planning Board:

See minutes.

Recreational Complex Board:

No report.

Pool Board:

No meeting.

Trees, Parks and Cemetery:

No report.

Water/Sewer/Garbage and Streets/Alley/Sidewalks:

See minutes.

T.I.F.F.:

No report.

CTAC:

No meeting.

**VII. Public Comment:**

No comments.

**VIII. Consent Agenda:**

**Planning Board:**

Business License / TNT Fireworks / Seth and Michael Coombe / 208 N Division St / Approved.

Business License / Home away RV & VRBO / Cary and Susan Asel / 607 W Legion / Approved.

Building Permit / Doug Raybould / 1 Whitetail DR Lot # 11 / new structure / Tabled.

Building Permit / Chris and Gretchen Tavenner / Fence / 304 N Brooke St / Approved.

Review of subdivision draft.

Roy made a motion to approve Doug Raybould Building permit.

Pat: The only question I have is, did they come in. Because Tom Harrington was contacted.

Roy: It is all handled. I talked to Tom today. I think you approved it.

Pat: I did because I thought that was him.

Roy: The way you approved it is the way it should have been done. There should be no question about who signed it.

Pat: There was because the contractor brought it in and signed the form and if a contractor brings in the form you have to have the owner information and some people were uncomfortable because they could not read the signature.

Roy: They should have called that in and handled it. You approved it and as far as I am concerned, it was approved as soon as you signed off on it.

Pat: They did not have to stop work.

Roy: But they did.

Pat: It was stated in the meeting that they did not have to stop work.

Roy: I talked to Tom today and he said that he stopped them because he wanted this cleared up first. That's why I pulled it off tonight.

Roy made a motion to approve with Katy seconding.

**THE MOTION PASSED UNANIMOUSLY**

Allissa: TNT Fireworks has been getting their business license in Town every year, do they need to re applied every year or can they just renew it each year?

Bill: It should just be a renewal.

Allissa: Yes, I just noticed that again and was wondering. I just think we can skip that step. I will let them know.

**Fire Department**

Brendan Lounsbery

Katy made a motion to approve with Shawn seconding.

**MOTION PASSED UNANIMOUSLY**

**IX. PRESENTATIONS**

Jared Brown with BBG Contracting.

Jared: Ok so I can't remember was it 3 or 4 years ago?

Mayor Mary: It was 3 years ago.

Jared: Ok 3 years ago we got a call about some problems with siding on this building from when we previously built it. We tried to figure out what was going on and we found out that the product the architect specified for the project was a Certainteed weather board which is basically a hardy pine from

a different company and there was a class action law suit against Certainteed for their weather board product. This is not the only building. We have had a number of houses and different products that we have done that we have had to replace the siding on, at that time, the claim has to be filed by the owner, not the contractor. So, what I did was provide everyone with the plans and went and did measurements, took pictures of all the cracks and went through everything. I gave all the information to, I think it was Dale at the time and he signed off on it. I guess there was some confusion at the time and it did not get sent in. I called Summer a couple of months later asking what was going on and telling her that if it did not get sent in, they would not get paid. I think it eventually got sent in. We came back and did the work, we elected not to put the hardy siding back on it. We put the metal siding on because we thought it would be better. All of this we did within the certain amount approved to pay for the siding replacement. We had a mis-communication and we did not sign a contract or anything. I mean, I grew up here that was probably my mistake. We finished the work and Certainteed half the payment and we were under the impression we would get paid from the City for the work that we did. We got the first half of the payment and we have been waiting for the second half of the payment. I understand there has been some issues on some, very few in town but, the reality is, the claim was filed and we completed the work within the amount that Certainteed gave and we are requesting payment after however many years. Does anyone have any questions?

Ed: I have a few. So, you said you did the work in the amount that Certainteed provided. Can you explain the source of this payment was that a payment to you or to the Town?

Jared: No, so the owner, the Town of Whitehall filed the claim so the payment comes to the city and then it is the owner's responsibility to find a contractor to do the replacement. I can't remember the exact number but, let's say Certainteed said, OK we will give you \$18,000 to replace it. We then came in and said OK and talked to who would now be Mary and they decided let's do metal, it is a better siding and will last longer. Metal siding is typically a little more money to install than lap siding but we did it within the budget too, I guess help the City of Whitehall. If I had priced that job at what it should have been I would have priced it probably about \$1500 over what it was just because the cost of installing it is a little more money and the product is a little more money. That is where that came from, I was trying to be helpful and do it within the budget so it did not cost the City any more money.

Ed: How would we find out what amount that Certainteed approved?

Jared: I have no idea but I believe we knew what it was. They came back and said, I think we gave them the bid but I don't remember how all that went down but, I know there was a number.

Ed: I have been involved in this for years. I wrote you a letter back in December of 2017 asking you to attend a meeting so we could talk about this situation and we never heard from you and it has been up in the air ever since then. I guess from my point we really did not have enough communication really to understand this bill to be able to say that we as a Town owed this money. The origin of this dispute is we got an inspection in October of 2017 that said the siding had been put on improperly. That it had not been nailed to any force such as a stud, it was just nailed to the Siff paneling which is what the inspector said had started the problems. I do not know for certain if the Town actually made a claim because of this inspection pointing the blame back at the way it was installed not the product problem. Summer never told me if they actually made a claim or not.

Jared: They did. I have a copy with Dale Davis signature on it. They sent it in. I know who the inspector was. Assuming that that is the case or not the City of Whitehall has been paid for it and we did the work with an agreement that I would be paid for it so, that is what I am here for, to receive payment. They got siding on there building and there was no cost for it. As far as installation. I had a talk with, who I am assuming your inspector was. There is also a part of contracting that goes to design and specification and the architect specified that material for us to install and we followed the manufactures specifications such as certain nail lengths and whatever else. I guess I did not put much merit in that. It was clearly a siting issue and like I said we had a number of them on other products that we helped owners to submit and we got paid for it. I think 4 or 5 we did probably in the last year or year and a half after that so I guess at this point and I could be wrong but it seems mute to me. The siding had an issue and the Town filed a claim and Certainteed paid them out of the class action funds. We did the work so we expect to get paid.

Ed: Allissa do you know if we were paid for certain?

Jared: I know you were paid the first half because we got paid for the first half. As far as the final payment from Certainteed, I thought we got a call or an email. I would have to check, saying the city had been paid for it.

Allissa: Yes, we did receive the first half. Now requesting the second half all we get is an automated message saying your claim will be processed in the order it was received and it says August 2020 well August has come and gone and it still just says the same thing.

Mayor Mary: It does not look like we are getting anymore money from that.

Jared: I do not see how that is possible because the claim was made so those funds are set aside so it just might take some more digging. Maybe your attorney can get on the horn and get after them a little bit.

Pat: So, we know we got the first half but we do not know if we got the second half?

Allissa: Yes. Basically what Mr. Brown is saying is he did the work so he should be paid.

Jared: All you really got to do is talk to them and if it turns out you are not getting any more money, I am willing to work with you. We have always had a good working relationship other then that hiccup in the middle. Like I said I grew up here and I do not have a problem helping out. It was mostly just the way that it was handled that got to me.

Roy: I have a question. You said you did not sign a contract?

Jared: No, I did not.

Roy: Were you told you would be paid specifically from those funds?

Jared: No, we talked about it. Just that we would get to work and get the funds and get it all taken care of. It did not look good and nobody wanted it to look like that including myself. I expected to be paid for it but I did not know where it was coming from, I assumed it was coming from the class action law suit.

## **X. Unfinished Business**

A. Council discussion and determination on paying BBG Contracting for the siding of Town Hall that took place over 3 years ago.

Katy motioned to discuss with Pat seconding.

Roy: I want to ask Ed a question. In your legal opinion do we owe the money yes or no?

Ed: Well, we have this issue that you brought up. Was it contingent on these repairs being part of the Certaineed settlement? Unfortunately, after my efforts ended, I was out of the loop. I do not know what deals were made either prior to or after that time as to that payment. It is a little bit troubling that we did have a report saying there was a problem with the installation whether that is BBG or the architect I have no idea. Obviously, that was attributed to the problem and then we had Certaineed involved and they were willing to pay at least half and now we don't have the other half but we have a contractor who wants to get paid so, I do not have a good answer. I wish we had the other people who were on the other side of this agreement and then we would know for certain what the terms in the agreement were.

Pat: We do have emails from Jared saying we are sorry about your situation but we have to continue the fees and at the time of payment those additional charges will have to be paid. We will continue to send an invoice every month so the charges can be tract and this was back in December of 2018. So, there was communication that there would be finance charges and they would continue to accrue.

Mayor Mary: Yes, they have sent the statements every single month.

Shawn: My thought is you have an architect that specified a certain product on a building he designed. The contractor installed it. And a company Certaineed, who by partial payment has acknowledged fault. The fact that Certaineed paid pretty much sets the stage for our responsibility.

Jared: I can give you an example. The ambulance building in three forks was built the same way with Siff panels in 2015, has different siding on it then what was originally used on this one and we have not had any problems with it.

Shawn: Which is why I think they paid. Whether we got that second payment or not it does seem like if we did it would have covered for the rest of the amount for the new siding.

Mayor Mary: And we could still get some money from them. But I think 3 years is far too long to not get paid. I feel that they were treated badly by the former clerk it was very abusive if you have read thru the emails and I think it would cost us a lot more in lawyers fees and such if BBG decided to sue the town. I think it is something we need to get off the books and move forward.

Roy: What do you think Ed?

Ed: Well, I think I am going to defer to Mary on this since she was the one who talked to Mr. Brown and came up with some terms of an agreement. It sounds like the towns dispute at this point was with the siding and whether they would get paid. It almost sounds like there was steps that were needed to insure we got that second payment and that ball might have been dropped by the town and that would not be BBG's problem either it is the towns problem. Ideally it would be nice if we could sort this out with Certaineed but I can appreciate that that is probably not good with Jared.



Jared: You know until I was treated in a manner, I didn't feel was right I have always been helpful. When we have problems, we are always willing to take care of it that is why we are here today. I had some conversations with previous individuals that put me on the fight a little bit and I have never been that way. I think anything I could do to help right now I still would.

Mayor Mary: We have had no problems with the new siding. We have not had any repairs it has been a great product and you did a great job.

Jared: Anything I can do to help I will.

Bill: It is in my opinion that we lead in good faith and pay the contractor for the work. Whether we get anything or not he did the work.

Pat: We had talked about paying the balance due but not the penalties until I went thru the emails and you specified in the emails.

Shawn: If you will work with us, I would like to make a motion to pay the net balance due as of 06/25/2018 of \$ 8,827.00. Linda seconded the motion.

**MOTION PASSES UNANIMOUSLY.**

B. Council discussion and determination on sharing the cost with Jefferson County on hiring a grant writer.

Katy motioned to discuss with Shawn seconding.

Roy: I don't think we need to in my opinion. We have a good thing going with our engineer. Why should we pay for something that has already been done? To me when I heard Leonard talk about it was not going to be a grant writer it was going to be an administrator and we have that already. I just don't see any reason to be part of that program.

Allissa: Jason is doing a really good job he really stays on top of it.

Mayor Mary: And he has already submitted all the applications.

Linda: I think that would just take us off track on what we are doing.

Pat: I do not know. I did not think it was just an engineer that we are looking for. We have the planner, Jeremy, what he did in one month would have taken us 6 months or a year. And we have everything ready for the subdivision regulations. I am saying it is not just an engineer.

Roy: I am not saying that it is. What I am saying is that we have a good relationship with the people we deal with now. I have called and asked Jason if we need to hire a grant writer in fact, I was in contact with one and her first comment was I don't want to do it and her next one was who is your engineer? I said its Triple Tree and she said you do not have a problem you do not need me. And why would I want to share with the County. Getting anything past the god damn back door of Boulder to get it here is almost impossible. So, why would we put money into something where we are probably going to get treated like a "bastard" child? I just think we do better on our own if we control our own destiny. The County is fine on there own let them handle it and us just take care of Whitehall. I think we have it under decent control right now, I think we have got a good board and Kory is on top of a lot of this stuff so, I just think we need to stay away from the county.

**NO MOTION ITEM FAILS**

C. Update on Updating / recodifying Ordinances.

Allissa: So, in the packets I just attached an email between myself and Muni code. Everything costs money. I am sorry I spent more time on the budget then this but I can get an email out to you guys to start from square 1 and we can get a word document started so we can make changes. So, if you will just read that all the information is in there and we can go from there. Basically, get the ball rolling and get our Ordinances updated.

Katy: I know last meeting we talked about the Judge. Would it be beneficial for us to get with Boulder and see what he could do?

Ed: I don't think we would need to get with Boulder, he does stuff for us to and this I think would be a pretty easy look over for him, he just looks over then and marks out or redlines what needs to be changed then the clerk will send them to me and its really quick and painless.

Katy: So, maybe we can save ourselves some time and utilize that?

Ed: I think that would really be your first step. To say here you go.

D. Council discussion and determination on updated Sheriff's Contract.

Mayor Mary: Ed covered this in his report. Do you have anything?

Ed: No, but I can tell you we incorporated what was passed by the Council last month. So, assuming that they're ok with that edition we are underway. And hopefully we hear back from them soon.

Shawn motioned to table with Roy seconding.

**MOTION TABLED.**

**XI. New Business**

- A. Council discussion and determination on Resolution 2021-10 cost of living increase for full time employees.

Pat motioned to discuss with Shawn seconding.

Roy: I think this is standard. We do this every year. What percent is it?

Allissa: It is in the resolution.

Pat: 1.3 percent. That is \$.50.

Allissa: 1.3 we get every year. You all have the choice on whether to give us the increase.

Roy: That’s a pretty cheap deal. I think we have got a good crew and we need to keep them we can’t afford turn over. And 1.3 is not bad.

Bill motioned to approve with Katy seconding it.

**MOTION PASSES.**

**XII. BILL/ CLAIM APPROVAL LIST TO BE SIGNED BY ALL COUNCIL MEMBERS**

Shawn made a motion to approve the bill claim approval list with Roy seconding.

**THE MOTION PASSED UNANIMOUSLY.**

**XIII. Adjourn:**

Roy made a motion to adjourn the meeting at 8:00pm with Katy seconding.

**THE MOTION PASSED UNANIMOUSLY.**

\_\_\_\_\_  
Mayor Mary Hensleigh

\_\_\_\_\_  
Date

\_\_\_\_\_  
Town Clerk Treasurer

\_\_\_\_\_  
Date