



**Stevensville Special Town Council Meeting
Agenda for
WEDNESDAY, JULY 03, 2019
7:00 PM**

1. Call to Order and Roll Call
2. Pledge of Allegiance
3. Approval of Bi-Weekly Claims
[Approval](#) of Claims #15223 - #15274
4. Correspondence
[a.](#) Settlement Offer from Datsopoulos, MacDonald & Lind, P.C. RE: Tribbensee Employment
5. Public Comments
6. Unfinished Business
7. New Business
[a.](#) Discussion/Decision: Mayor's Veto of Council's appointment of James V. Crews to Ward 2 Council Vacancy
[b.](#) Discussion/Decision: Consent to Mayor's appointment of Scott B. Owens as City Attorney
[c.](#) Discussion/Decision: Consent to the Mayor's Appointment of Robert Underwood as Finance Officer and approving compensation of \$21.00 per hour
8. Executive Report
 - a. Update on Twin Creeks Well Field & Water Restrictions
 - b. Update on FY2020 Budget
9. Adjournment

Guidelines for Public Comment

Public Comment ensures an opportunity for citizens to meaningfully participate in the decisions of its elected officials. It is one of several ways your voice is heard by your local government. During public comment we ask that all participants respect the right of others to make their comment uninterrupted. The council's goal is to receive as much comment as time reasonably allows. All public comment should be directed to the chair (Mayor or designee). Comment made to the audience or individual council members may be ruled out of order. Public comment must remain on topic, and free from abusive language or unsupported allegations.

During any council meeting you have two opportunities to comment:

1. During the public comment period near the beginning of a meeting.
2. Before any decision-making vote of the council on an agenda item.

Comment made outside of these times may not be allowed.

Citizens wishing to speak during the official public comment period should come forward to the podium and state their name and address for the record. Comment during this time maybe time limited, as determined by the chair, to allow as many people as possible to comment. Citizens wishing to comment on a motion for decision before any vote can come forward or stand in place as they wish. Comment must remain on the motion before the council.

19:13:04

TOWN OF STEVENSVILLE
 Claim Approval List
 For the Accounting Period: 6/19

Page: 1 of 5
 Report ID: AP100

* ... Over spent expenditure

Claim	Check	Invoice #/Inv Date/Description	Vendor #/Name/ Line \$	Document \$/ Line \$	Disc \$	PO #	Fund Org Acct	Object Proj	Cash Account
*** Claim from another period (5/19) ****									
15223	E	34 STEVENSVILLE HARDWARE AND RENTAL		665.70					
		05/31/19 WW operating Supplies		2.79*			5310 430610	220	101000
		05/31/19 WWTP Operating Supplies		29.56*			5310 430640	220	101000
		05/31/19 WTP Operating Supplies		16.56			5210 430540	220	101000
		05/31/19 Main St Waste Bags		2.69			1000 430200	230	101000
		05/31/19 PD Operating Supplies		6.49			1000 420100	232	101000
		05/31/19 Airport Well R&M Supplies		91.46*			5610 430300	230	101000
		05/31/19 WWTP Operating Supplies		0.52*			5310 430640	220	101000
		05/31/19 Parks Operating Supplies		28.99*			1000 460430	220	101000
		05/31/19 PD Operating Supplies		8.03*			1000 420100	230	101000
		05/31/19 Main St Flowers		75.80			2940 410550	350	101000
		05/31/19 Main St Flowers		3.99			2940 410550	350	101000
		05/31/19 Pool R&M		16.74*			1000 460450	230	101000
		05/31/19 Main St Flowers		361.33			2940 410550	350	101000
		05/31/19 Pool R&M		5.98*			1000 460450	230	101000
		05/31/19 Pool R&M		16.28*			1000 460450	230	101000
		05/31/19 Pool R&M		-1.51*			1000 460450	230	101000
*** Claim from another period (5/19) ****									
15248	E	230 Verizon Wireless		417.64					
		May 19 05/18/19 Cell Phone - Mayor		37.41			1000 410200	340	101000
		May 19 05/18/19 Cell Phone - PD		190.56			1000 420100	340	101000
		May 19 05/18/19 Cell Phone - BD		106.70			2394 420531	340	101000
		May 19 05/18/19 Cell Phone - H2O		32.16*			5210 430510	340	101000
		May 19 05/18/19 Cell Phone - Sewer		32.16*			5310 430610	340	101000
		May 19 05/18/19 Cell Phone - Airport		18.65			5610 430300	340	101000
15249	E	1596 Charter Communications		134.97					
		06/01/19-6/30/19							
		June2019 06/01/19 H2O/Sewer office phone & int		67.49*			5210 430510	340	101000
		June2019 06/01/19 H2O/Sewer office phone & int		67.48*			5310 430610	340	101000
15250		748 Allegra Print & Imaging		823.24					
		61997 06/11/19 Stop Work Order		56.68*			2394 420531	320	101000
		61997 06/11/19 Building Permit		186.65*			2394 420531	320	101000
		61997 06/11/19 Mech Permit		186.65*			2394 420531	320	101000
		61997 06/11/19 Elec Permit		186.65*			2394 420531	320	101000
		61997 06/11/19 Pumbing Permit		186.65*			2394 420531	320	101000
		61997 06/11/19 Wood Decay Stamp		19.96*			2394 420531	320	101000

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TOWN OF STEVENSVILLE
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 Report ID: AP100

* ... Over spent expenditure

Claim	Vendor #/Name/ Check Invoice #/Inv Date/Description	Document \$/ Line \$	Disc \$	PO #	Fund Org Acct	Object Proj	Cash Account
15252	1031 MR ASPHALT, INC. 2474 06/22/19 Street patching - Spring St	9,549.00 9,549.00*			2820 430200	360	102000
	*** Claim from another period (5/19) ****						
15254	108 BITTERROOT STAR 3175 05/15/19 Variance Legal Notice 3176 05/22/19 Variance Legal Notice 3190 05/29/19 Council Vacancy Notice	60.66 21.15* 21.15* 18.36*			2250 410210 2250 410210 1000 410211	330 330 330	101000 101000 101000
15255	1621 Kevin Oberhofer 06/14/19 Fuel reimbursement	99.40 99.40			1000 420100	231	101000
15256	247 Arcmasters Welding 890935 06/12/19 Sand Filter Repair	85.00 85.00*			1000 460450	350	101000
15257	812 JOOST INDUSTRIAL, INC. 490066 05/01/19 Belts	221.12 221.12*			5310 430640	230	101000
15259	1645 ChemScan, Inc. 7687 06/13/19 Pump Assembly	1,688.00 1,688.00*			5210 430540	212	101000
	*** Claim from another period (5/19) ****						
15260	1646 KLEIN CONCRETE CUTTING 1665 05/13/19 Flush Cut Stem Wall	575.00 575.00			5310 430640	350	101000
15261	1117 Municode Municode Adminstrative Support Fee 6/1/2019 to 5/31/2020 00328552 06/03/19 Administrative Support Fee	225.00 225.00*			1000 410550	355	101000
15263	56 HAWKINS, INC. 3179647 06/11/19 Pool chemicals	151.99 151.99			1000 460450	220	101000
15264	1448 Bitter Root Laundry & Cleaners Rug Cleaning for the Pool 0063042 06/17/19 Pool Rug Cleaning	47.23 47.23*			1000 460450	350	101000
15265	348 Snow Mountain Electric 3070 06/11/19 UV Building Motor Issue 3071 06/11/19 Pool Heater Hookup	150.00 75.00* 75.00*			5310 430640 1000 460450	360 350	101000 101000
15266	1118 Montana Magistrates Association Montana Magistrates Association Annual Dues - FY 7/1/2019-6/30/2020 19-20 05/29/19 MT Magistrates Association Due	200.00 200.00*			1000 410360	330	101000

19:13:04

TOWN OF STEVENSVILLE
 Claim Approval List
 For the Accounting Period: 6/19

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* ... Over spent expenditure

Claim	Check	Invoice #/Inv Date/Description	Vendor #/Name/	Document \$/ Line \$	Disc \$	PO #	Fund Org Acct	Object Proj	Cash Account
15268		1647 BITTERROOT WASH & WAG		196.00					
	951465	06/01/19 Landscape Repair		196.00			1000 430200	350	101000
15269		1271 Sweet Pea Sewer & Septic		70.00					
	68590	06/17/19 LCP Porta Potty Service		70.00*			1000 460430	350	101000
15270		17 MONTANA SAWS		112.50					
	23	06/18/19 Oil / Mix		21.25			1000 460430	230	101000
	23	06/18/19 Oil / Mix		21.25*			1000 430900	230	101000
	23	06/18/19 FD Chainsaw Chains		70.00*			1000 420460	230	101000
15272		351 STANFORD POLICE SUPPLY		169.90					
	94305	06/06/19 Uniform/equip		34.95*			1000 420100	226	101000
	94305	06/06/19 LED Light		134.95			1000 420100	220	101000
15273		66 MONTANA ELECTRONICS Co., Inc.		248.07					
	02743	06/06/19 Radio Repair		128.07*			1000 420100	230	101000
	02744	05/06/19 Siren Repair		120.00*			1000 420100	230	101000
*** Claim from another period (5/19) ****									
15274	E	1596 Charter Communications		164.95					
05/09/19 - 06/08/19									
	May 19	05/09/19 FD phone/internet		13.50			1000 420410	340	101000
	May 19	05/09/19 H2O dept phone/internet		44.98*			5210 430510	340	101000
	May 19	05/09/19 Sewer dept phone/internet		44.98*			5310 430610	340	101000
	May 19	05/09/19 Court phone/internet		13.50			1000 410360	340	101000
	May 19	05/09/19 BD phone/internet		13.50			2394 420531	340	101000
	May 19	05/09/19 PD phone/internet		34.49			1000 420100	340	101000
# of Claims			22	Total:		16,055.37			
Total Electronic Claims				1,383.26	Total Non-Electronic Claims			14672.11	

TOWN OF STEVENSVILLE
Fund Summary for Claims
For the Accounting Period: 6/19

Fund/Account	Amount
1000 GENERAL	
101000 Cash - Operating	\$2,071.60
2250 PLANNING	
101000 Cash - Operating	\$42.30
2394 BUILDING CODE ENFORCEMENT	
101000 Cash - Operating	\$943.44
2820 GAS APPORTIONMENT TAX	
102000 Cash - Restricted	\$9,549.00
2940 Economic Development	
101000 Cash - Operating	\$441.12
5210 WATER	
101000 Cash - Operating	\$1,849.19
5310 SEWER	
101000 Cash - Operating	\$1,048.61
5610 AIRPORT	
101000 Cash - Operating	\$110.11
Total:	\$16,055.37

19:13:05

TOWN OF STEVENSVILLE
Claim Approval Signature Page
For the Accounting Period: 6/19

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ORDERED that the Town Treasurer draw a check/warrant on the Town of Stevensville.

Council Council

Council Council

Mayor

Date Approved _____

Item Attachment Documents:

- a. Settlement Offer from Datsopoulos, MacDonald & Lind, P.C. RE: Tribbensee Employment

DM&L

Datsopoulos, MacDonald & Lind, P.C.
LAW OFFICES | EST. 1974

Missoula Offices

Central Square Building
201 W. Main Street, Suite 201
Missoula, MT 59802

Phone: 406.728.0810
Fax: 406.543.0134

www.DMLlaw.com

Hamilton Offices

Hamilton Center
1920 N. First Street, Suite C
Hamilton, MT 59840

Phone: 406.961.9003
Fax: 406.961.9004

www.DMLlaw.com

Milton Datsopoulos

Dennis E. Lind
William K. VanCanagan
▲ Terance P. Perry
◦ Molly K. Howard
Trent N. Baker
Peter F. Lacny
Nathan G. Wagner
Joseph R. Casillas
George H. Corn
• Jason A. Williams
Jenna Lyons
Edward "Jake" Miller
Darla J. Keck [Of Counsel]
Zane K. Sullivan [Of Counsel]

Ronald B. MacDonald [1946-2002]

▲ Also admitted in Massachusetts
▶ Also admitted in North Dakota
◦ Also admitted in Washington
• Also admitted in Idaho

Via Certified U.S. Mail and E-Mail:

Town of Stevensville
Attn: Mayor Dewey
206 Buck St
Stevensville, MT 59870
mayor@townofstevensville.com

June 14, 2019

Dear Town of Stevensville,

Please be advised that we represent Audree Tribbensee. This letter is a formal attempt to inform you of the issue that has arisen with respect to Audree's former employment as the City Clerk for the Town of Stevensville.

Ms. Tribbensee has dedicated most of her professional career to municipal service, beginning in 1984. She left a prestigious position as the Community Development Director in Sedona, Arizona, to take the job offer with the Town of Stevensville. She has also worked in similar roles in places that are desirable to live, such as Hawaii and Park City, Utah. Audree began her employment with the Town of Stevensville on July 9, 2018.

The work environment became hostile almost immediately. The behavior exhibited by the Town Council can only be described as severe, degrading bullying. Audree first addressed the Council on August 13, 2018 at a regular City Council meeting regarding the existing hostile work environment that the Council created. There are audio recordings of two councilmembers (Barker and Michalson) acknowledging the hostile work environment.

As time went on, the work environment became more and more miserable. The attacks on Audree and the Mayor of Stevensville were so intimidating, that in October 2018, after three months of unrelenting bullying, Ms. Tribbensee filed a formal grievance with the Town. An independent third-party investigator submitted a report with her findings, and

the Mayor issued a final determination, which substantiated the contents of Ms. Tribbensee's grievance. The independent investigator's findings included the following:

*The communication situation in the Stevensville town government could reasonably be characterized as a situation so intolerable that a reasonable person could not be expected to endure it. **If one or more individuals on staff decides to leave the Town and sue for constructive discharge, the Town is likely to face significant liability.** This intolerable situation must be recognized by both the Council and Mayor to improve their communications with one another and with the staff.*

See attached Exhibit A (bold and underlining supplied). Rather than improve Ms. Tribbensee's work environment and change their behavior, the Town retaliated against her, even going so far as to say that they could fire her because of her grievances, filing grievances against her, and calling 911 and filing a report against her in retaliation. Council President Michalson even accused her of official misconduct, obstruction, and breach of office—all of which were unfounded and fabricated allegations. Audree submitted multiple grievances and complaints on October 4, 2018, March 29, 2019 and April 10, 2019, but no action was taken and the situation did not improve.¹ See, e.g., April 10, 2019 Grievance, attached Exhibit B.

In January of 2019, Audree was promoted after the Mayor's reorganization plan was approved by Council to Town Clerk/Zoning Administrator. On April 11, 2019, the Town retaliated and rescinded her promotion.

On April 12, 2019, after enduring constant bullying and insults, Audree resigned from her position. See attached Exhibit D. Mayor Brandon Dewey acknowledged that the bullying, harassment, and poor treatment of the Town Clerk by the councilmembers required him to refrain from hiring that position and subjecting yet another Clerk to the terrible working conditions. See attached Exhibit E. Apparently, the Town Clerk before Audree was bullied as well, and forced to resign.

The Town of Stevensville's Personnel Policy Manual provides:

Employees are expected to treat, members of the public, co-workers, elected officials, vendors, colleagues, and other business contacts with respect and dignity.

See attached Exhibit C, p. 3.

¹ Ms. Tribbensee exhausted the internal grievance process outlined in the Stevensville Personnel Policy. See attached Exhibit C, p. 39.; *Offerdahl v. State*, D.N.R., 2002 MT 5, 308 Mont. 94, 43 P.3d 275; *Haynes v. Shodair Children's Hosp.*, 2006 MT 128, ¶¶ 14-17, 332 Mont. 286, 137 P.3d 518.

In addition, the Town of Stevensville has a policy called "Diversity, Harassment and Bullying Prevention". See attached Exhibit F.

I. Ms. Tribbensee Was Constructively Discharged under the Montana Wrongful Discharge from Employment Act.

To prevail on a wrongful discharge from employment claim, an employee must establish that he or she was discharged and that the discharge was wrongful. Montana Wrongful Discharge from Employment Act, Mont. Code Ann. §§ 39-2-901, et seq.; *Kestell v. Heritage Health Care Corp.*, 259 Mont. 518, 524, 858 P.2d 3 (1993). Under Mont. Code Ann. § 39-2-903(2), "discharge" includes resignation, layoff, job elimination and constructive discharge, which is defined in Mont. Code Ann. § 39-2-903(1) as the voluntary termination of employment by an employee because of a situation created by an act or omission of the employer which an objective, reasonable person would find so intolerable that voluntary termination is the only reasonable alternative.

As was foreshadowed by the investigator's findings in this matter, Ms. Tribbensee has a textbook claim for constructive discharge under the Wrongful Discharge from Employment Act. Mont. Code Ann. § 39-2-903(1). Constructive discharge is voluntary termination of employment by an employee because of a situation created by an act or omission of the employer which an objective, reasonable person would find so intolerable that voluntary termination is the only reasonable alternative. *Kestell v. Heritage Health Care Corp.*, 259 Mont. 518, 524-25, 858 P.2d 3 (1993). Obviously, this situation falls squarely within this category.

A determination of constructive discharge "depends on the totality of circumstances, and must be supported by more than the employee's subjective judgment that working conditions are intolerable." *Snell v. Montana-Dakota Utils. Co.*, 198 Mont. 56, 643 P.2d 841 (1982). Here, it is evident that Mayor Dewey and the prior Town Clerk believed that the working conditions were intolerable. See attached Exhibit E. Here, as in *Kestell*, credible evidence in the record shows that Ms. Tribbensee, a highly qualified professional, was treated as a "non-person." *Kestell*, 259 Mont. at 525. We believe that the Town of Stevensville, by and through its Council, rendered Audree's working conditions intolerable, giving rise to a claim for constructive discharge that would most likely succeed at trial.

II. Audree Has Compensable Damages as a Result of Her Constructive Discharge.

Audree is currently still looking diligently for another place to work. However, the actions of the councilmembers, which can only be described as bullying and intimidation, have caused Ms. Tribbensee to suffer extreme emotional and physical problems. For instance,

she has suffered adverse effects on her adrenal system, weight, and overall wellbeing. She suffers from intense anxiety, depression, and feelings of despair and helplessness. She is constantly angry and questions her self-worth due to the comments and behavior of the Town of Stevensville councilmembers.

At the time Audree was forced to resign from her job, Audree made \$18.00 an hour. Had Audree maintained employment with the Town of Stevensville, she would have started making \$24.00 an hour.

Under the WDEA, if an employer has committed a wrongful discharge, the employee may be awarded lost wages and fringe benefits for a period of 4 years from the date of discharge, plus interest. Mont. Code Ann. § 39-2-905(1). Based on a 2,080 hour per year work schedule, this comes to \$199,680 in lost wages alone. Ms. Tribbensee would also be entitled to compensation for any money she has expended in the process of searching for a new job. *Id.*

In addition, Ms. Tribbensee has a viable claim for punitive damages, given the actual malice demonstrated by the Town Council, and given the retaliatory nature of their conduct in response to Ms. Tribbensee's grievances and reporting the Council's violations of public policy. Mont. Code Ann. § 39-2-905(2).

At this time, we would agree to release the Town and its insurers in exchange of payment of \$500,000. This offer will remain open for 21 days at which time it will be withdrawn, and we will commence litigation. In the meantime, please do not hesitate to contact me if you have any questions.

Sincerely,

DATSOPOULOS, MacDONALD & LIND, P.C.

By:



Jenna P. Lyons

Nathan G. Wagner

INVESTIGATION REPORT

should say
2018*

DATE: November 16, 2015

TO: Town of Stevensville, Montana
Mayor Brandon Dewey

FROM: Malin Stearns Johnson
Johnson and Johnson Law, PLLC

RE: Investigation regarding complaint of Bullying and Harassment raised by Audree Tribbensee on October 4, 2018, and supplemental Retaliation complaint

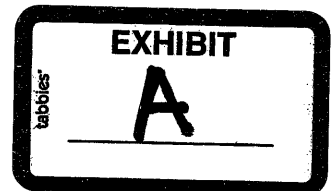
SUMMARY OF FINDINGS:

1. Audree Tribbensee's allegations of bullying and harassment against Town Council members Bob Michalson, Robin Holcolmb, and Stacie Barker, and against citizen Jim Crews, are not sustained;
2. Ms. Tribbensee's supplemental allegation of retaliation for filing a complaint against Councilman Bob Michalson is sustained;
3. The investigation revealed a work environment that most staff perceive as toxic and intolerable and which, if not resolved, has the potential to result in liability to the Town in the form of a constructive discharge claim and possibly multiple such claims; and
4. The Town's policies regarding bullying, harassment, discrimination, and retaliation are insufficient, both in how they are written and in how they are implemented.

I. Investigation Background

This Investigation Report concludes an investigation into allegations raised by Town Clerk Audree Tribbensee on October 4, 2018. The Complaint alleges bullying, harassment, and creation of a hostile work environment by the Town Council and former mayor Jim Crews.

On October 10, 2018, the Town of Stevensville, through Mayor Brandon Dewey, retained Malin Stearns Johnson of Johnson and Johnson Law, PLLC ("the investigator") to conduct an investigation into Ms. Tribbensee's allegations. The retention by Mayor Dewey was the first contact the investigator had ever had with



any individual involved in this matter. The investigator interviewed the Complainant, Town Council members, the Mayor, and several staff members; considered written documentation; analyzed the evidence; and issued this Investigation Report.

II. Scope of Investigation

This investigation addressed allegations of harassment and bullying raised by Audree Tribbensee in her Complaint of October 4, 2018.

During the investigation, Ms. Tribbensee raised an issue with the investigator regarding retaliation. Therefore, the scope of the investigation expanded to include this allegation of retaliation.

Also during this investigation, it became clear that the Town faced problems with communication, environment, and human resource policies. Thus, these issues are also addressed in the findings and recommendations addressed below.

III. Evidence Considered

A. Witnesses

The investigator interviewed Audree Tribbensee, Bob Michalson, Mayor Brandon Dewey, Denise Philley, Britnee Rhodes, Jenelle Berthoud, April Van Tassel, Robin Holcolmb, Stacie Barker, and Brian West.

Selection of interviewees was based on the investigator's need to substantiate, corroborate, or otherwise investigate allegations raised in the Complaint. Interviewees included those current employees who were identified in the Complaint, those who may possess or have possessed direct knowledge regarding issues within the professional relationships between those involved in the Complaint; and those who may possess or have possessed direct knowledge regarding Town personnel policies, procedures, and practices. Not all Town employees were interviewed, and no one other than Town employees, the City Council, and the Mayor were interviewed.

To preserve employees' privacy and dignity, facts or sentiments expressed by more than one individual are, on occasion, not attributed to any one individual in the factual summary below, and instead are summarized or combined.

The following are summaries of interviews as stated by the named individual witness during the investigative interview. The summaries are not

verbatim transcripts, but rather summaries of the information conveyed to the investigator at the time of the interview.

1. **Audree Tribensee**

Ms. Tribensee has worked for Stevensville since July 9, 2018. She filed a Complaint alleging Bullying and Harassment on October 4, 2018. Ms. Tribensee stated in her interview that she has worked in city governments for many years and does so because she is a friendly person who loves being a public servant. When her husband retired, they moved to Stevensville, Montana, and she was happy to get a job with the Town that suited her experience.

Regarding bullying and harassment, Ms. Tribensee's states she recalls hostility from former mayor Jim Crews and Councilman Bob Michalson since the start of her job with the town. She states they are always "looking at her with their arms crossed." She feels they are constantly telling her things she did wrong.

She cites Mr. Crews' statement at her first Council meeting that "you hire a new woman and she goes and rearranges all the furniture." She states she had not rearranged the furniture. Ms. Tribensee describes herself as terrified of Jim Crews. She cites examples of him following staff on personal time and in the office.

She states that Mr. Michalson, at one point, told the clerks, "You don't work for the mayor. You work for me." She refers to an incident where Dawn Geiger, Mr. Michalson's wife yelled at her that the Mayor was "just a figurehead." She says it is just not sustainable to be under constant attack, which is how she feels.

Regarding sexual discrimination, Ms. Tribensee describes Mr. Michalson as being dismissive about the "ladies" or "secretaries" in the office, which she finds offensive. Ms. Tribensee also describes an episode where Mr. Michalson asked her if she was "tribal." She said she found this racist because "tribal" could be meant as a criticism because some people think poorly of Native Americans. Then shortly thereafter, Mr. Michalson stated to Ms. Tribensee's husband, "Maybe we're sleeping with the wrong wives." She was offended and disgusted by this statement. She also thinks Mr. Michalson may sometimes drink alcohol before Council meetings.

Ms. Tribensee also feels some blame for the bullying and harassment rests with the remainder of the Council (only Robin Holcolmb and Stacie Barker during the pendency of this investigation), not because they are mean, but because they were informed of the hostile environment and failed to correct it. Also, she thinks

the Town Council seems preoccupied with getting at the Mayor, rather than doing the town's business. She thinks the Council all know the environment is hostile, but none are willing to be sympathetic to the clerks. Their refusal to act has just made it worse. In her opinion, her coming forward has put her in their crosshairs and now, rather than improving the situation, the Council members are all blaming her.

Ultimately, Ms. Tribbensee said her complaint is about professionalism. She would just like to see everyone be professional.

In a later, separate interview initiated by Ms. Tribbensee, Ms. Tribbensee addressed two conversations that occurred between her and Mr. Michalson after both individuals had been initially interviewed by the investigator. Ms. Tribbensee stated that Mr. Michalson approached her after a Council meeting and told her he hoped they could have more positive communication moving forward. She says this made her feel better. However, she says he later approached her again and reminded her she was a probationary employee and noted that a "citizen" had told him that as a probationary employee, she could be fired without cause, including for filing this Complaint. She says she told him that was retaliatory, and he responded he was just warning her.

2. Bob Michalson

Town Council member Bob Michalson reports he has served on the Council for about three years, and was involved in town politics as a citizen for about three years before that. Mr. Michalson states he became interested in the Council as a way to serve his community. Mr. Michalson says he is just trying to make Stevensville a better town.

Mr. Michalson states that the town government has a long history of not getting along. He states that, historically, the Council and staff have not gotten along well.

Mr. Michalson said he thinks Ms. Tribbensee is doing well, but she is new. He says she needs some leeway since she is new to her job. He thinks she is working "a heck of a lot."

Mr. Michalson said he tries to get documents and research from Ms. Tribbensee, but she takes offense. Mr. Michalson said his motivations are to get information from her, to follow rules, and to ensure rules are followed. Mr. Michalson states Ms. Tribbensee has to assist him with communications, requests for information, and emails, as that is in her job description. Regarding their introduction, Mr. Michalson said he is hard of hearing and did not notice her

trying to shake his hand. He said he would have shaken her hand if he had noticed. He would have come to her swearing in if he had known about it. Mr. Michalson denies drinking alcohol, says he is 32 years sober, and regularly attends Alcoholics Anonymous meetings.

Mr. Michalson says that the big problem is that Mayor Dewey has a problem with following the rules and the Council tries to be rigid about the rules. Mr. Michalson says it is the Mayor who is trying to stir things up. The Mayor is the one who has taken emails and gone to the press. The Council, he says, has tried to settle things down.

Mr. Michalson denies deleting files; he says he uses Dropbox every day, and having files available spares him having to go through Ms. Tribbensee to get things. He says it makes no sense for him to delete files. He says he did not do so.

Mr. Michalson acknowledges asking Ms. Tribbensee if she was "tribal." He states that he is a member of the Fort Belknap tribe and wondered if she was also Native American. He denies saying to Ms. Tribbensee's husband that they "were sleeping with the wrong wives." He says he did not say anything about sleeping with anybody.

Mr. Michalson denies bullying or harassing anyone, but admits that he raises his voice on occasion. He says he would like to see better communication between all parties: the Council, the Mayor, and the staff.

In a supplemental interview initiated after Ms. Tribbensee raised her secondary allegations of retaliation, Mr. Michalson admitted approaching Ms. Tribbensee and telling her he hoped they could have better communication. Mr. Michalson further admitted telling Ms. Tribbensee that she was a probationary employee and could be fired at any time, even for no reason. Mr. Michalson denied telling Ms. Tribbensee that she could be fired for filing a complaint. Mr. Michalson could not articulate any non-retaliatory reason for telling Ms. Tribbensee that she could be fired at any time; he merely said he was reminding her that she is probationary and that her job could be terminated at any time. He acknowledged that the timing of this warning appears retaliatory, yet he still could not state any legitimate reason for telling her that her job was in jeopardy.

3. Brandon Dewey

Brandon Dewey is the Mayor of the town of Stevensville. Mr. Dewey has been the mayor since January, 2018. Before becoming mayor, Mr. Dewey worked in several other jobs in town government in Stevensville. Mr. Dewey felt the

previous mayor, Jim Crews, was a bully, so he decided to run for mayor, and he won. Mr. Dewey found there were many concerns he had to rectify upon becoming mayor, including that the cash had not been balanced in twenty years.

Mr. Dewey says Jim Crews has followed Mr. Dewey around during his off hours when he is not working.

Mr. Dewey agrees with Mr. Michalson's focus on rules – Mr. Dewey states that “the law is the law” – but says Mr. Michalson uses it unfairly. The way Mr. Michalson does it, according to Mr. Dewey, it is not about doing the right thing, but about catching people doing something wrong. Mr. Dewey says he has lasted this long serving in various roles in town government because he knows and follows the rules.

Mr. Dewey says he heard Mr. Michalson ask whether Ms. Tribbensee was “tribal” and heard Mr. Michalson comment about “sleeping with the wrong wives.” Mr. Dewey thought both comments were inappropriate. Mr. Dewey states he thinks it is possible Mr. Michalson is impaired at Council meetings.

Mr. Dewey thinks everyone is partially to blame for the intolerable environment. Mr. Dewey thinks everyone needs to take a step back, stop making accusations against each other, and at least be nicer to one another. Mr. Dewey says the Council cannot control the Mayor and they have to accept that. Mr. Dewey thinks the Council is bullying and harassing both him and the women in the office. Mr. Dewey thinks it is a toxic working environment.

In a subsequent interview initiated by Mr. Dewey, Mr. Dewey stated that, prior to this investigation, he had received two anonymous notes reading, “Hey, Mr. Pedophile.” He does not know who sent the notes.

4. Denise Philley

Denise Philley has been the Utility Billing Clerk/Water/Sewer Clerk for ten years. She says was given three job descriptions, so what she does depends on who you ask. She says she is also sometimes referred to as the Deputy Treasurer or Deputy Clerk. Ms. Philley started as a temp and then instantly became the whole town hall when the existing clerks abruptly quit. She believes they quit and sued for constructive discharge. Ms. Philley says the environment in the town government is miserable and always has been. Usually a mayor lasts four years, and in ten years, she has seen ten mayors.

Ms. Philley said Jim Crews was a bully as mayor. He would bully everyone. He frequently got in her face and yelled at her. She would protest and

he would tell others, "I won't put up with her." She states she took a month off during Mr. Crews's tenure as mayor to get personal counseling to deal with the stress. She says Mr. Crews still bullies everyone. He comes in and makes snide remarks about why he should have to talk to certain clerks, or "Have they turned this place into a daycare?" commenting on the presence of Mayor Dewey's young son in the office.

Ms. Philley said Jim Crews and Bob Michalson often act together to bully or degrade the women in the office. They storm into the office, grab books and start paging through them without speaking to the clerks. She says it should be the clerks' job to get the paperwork for them. She says they have no respect for the clerks' role and space. Ms. Philley says they come in, cross their arms, force the clerks to do research for them, and sometimes just drop their question. She says they are really just bothering people.

Ms. Philley said Mr. Michalson is also a problem on his own. She cited an example where he yelled at the head lifeguard. Ms. Philley states that she protested and Mr. Michalson yelled at her too. She then told him he was creating a hostile work environment. She says Mr. Michalson's tone is condescending.

Ms. Philley does not go to Council meetings, but she thinks the Council in general is hostile and unproductive. She thinks Robin Holcolmb has a good heart, but Bob Michalson and Stacie Barker have been unkind to staff. She thinks the Council is not acting in the town's best interests, but rather is focused on doing in the Mayor and on exercising authority. Ms. Philley thinks the Council lacks the ability or the interest to productively communicate with the Mayor and clerks. She feels there is a lot of anger coming from the Council and they are not doing anything to help the clerks with what the clerks see as a hostile environment.

Ms. Philley says she stays with her job out of loyalty to the town, because of the other clerks, and because she supports Mayor Dewey.

5. Britnee Rhodes

Britnee Rhodes is the General Services Clerk for the Town of Stevensville and the Administrative Assistant for the Fire Department. She has worked for the Town of Stevensville since February. Ms. Rhodes attends the Council meetings, where she runs the PowerPoint and the camera. She finds the meetings stressful because they are very tense. The Council has talked about her job before while she was in the room, calling it unnecessary. She feels like anything she does, they don't like. Ms. Rhodes also states that when Town Attorney Brian West does not attend Council meetings, the Council becomes aggressive to Mayor Brandon

Dewey. As examples, Ms. Rhodes recalls Stacie Barker yelling, Bob Michalson yelling, and also former mayor Jim Crews yelling.

Ms. Rhodes states that Jim Crews has followed her around town at least three times, and one of those times Bob Michalson was with him. Ms. Rhodes is afraid of Jim Crews. She especially notes that she has observed Jim Crews being unkind to Denise Philley.

Ms. Rhodes feels like the Council micromanages the staff and seems to be trying to catch them doing something wrong. As an example, she states that she did an inventory of the Fire Department. Bob Michalson was positive about it, but then Mr. Michalson and Mark Adams did a "secondary search." She felt this was to check up on her because they did not trust her to do her job. She feels afraid she is going to get caught, even though she is doing her job well.

Ms. Rhodes enjoys her job, but finds herself not wanting to come to work. If Jim Crews or Mark Adams were elected to the Council, and if Audree Tribbensee leaves her job, Ms. Rhodes is not sure she will keep enjoying it. Right now, she finds the environment to be toxic.

6. Jenelle Berthoud

Ms. Berthoud has worked at the Town of Stevensville since January 2, 2018. She is the police clerk and evidence tech. She says she insisted on a specific job description. Ms. Berthoud goes to all Council meetings and has since her first day. Since the beginning, she says, it has been very difficult to complete that part of her job because of Council members' eye-rolling, side-talking, and hostile body language. Ms. Berthoud says she has no issues with, and actually enjoys, public speaking. But she finds the Council rude and disrespectful. She goes on vacation to escape the stress of her job. The next meeting, she says she plans to simply not speak until the rudeness stops.

Ms. Berthoud also gives examples of outright hostility by the Council. She said Stacie Barker, during a conversation about budget cuts, pointed at Ms. Berthoud and said loudly, "Don't think I can't do the same thing to the Police Department!" Ms. Berthoud says sometimes when Mr. Michalson doesn't get his way, he stomps on the floor and kicks the table. She says the Council is generally unruly, but the presence of Brian West at Council meetings causes 20-25% better behavior by the Council.

Ms. Berthoud says she believes Ms. Tribbensee and Mayor Dewey are being bullied and harassed by the Council. Ms. Berthoud says the Council attacks Mayor Dewey at each meeting. She says everyone is on edge and anxious.

Ms. Berthoud witnessed Mr. Michalson ask Ms. Tribbensee if she was “tribal” and heard him say, “we must be sleeping with the wrong wives.” Ms. Berthoud said she checked with Audree right away after everyone else left to see if it upset her. She says Audree told her she was okay.

Ms. Berthoud also feels bullied by Mr. Crews. She says Mr. Crews calls frequently, without identifying himself, to report minor issues to the police department, such as a car parked the wrong way. When he calls, she feels he is rude to her. Ms. Berthoud says, if she drives in a town vehicle for some reason, Mr. Crews either follows her around town or calls to ask why she was driving that vehicle. She says, in meetings, he attacks the mayor and raises his already loud voice.

Ms. Berthoud says the whole situation makes her feel sad.

7. April Van Tassel

April Van Tassel has worked as the Finance Officer for just over one year. Previously, she worked for the Town beginning in 2015 for eleven months, so she has worked for the Town for a total of just over two years.

Ms. Van Tassel believes Council’s egos are getting in the way of their running the town. She feels harassed by the constant phone calls and visits from Mr. Michalson and Mr. Crews. She feels she is being micromanaged by people who don’t know how to do her job.

At the beginning she told the Council that if they had questions, they should ask her, and Bob Michalson did at first, Stacie Barker did once, Robin Holcolmb never did. Instead, Ms. Van Tassel said, they asked for special audits so they could prove Ms. Van Tassel was doing her work wrong. She said it always feels accusatory with them. They’re always trying to demand something instead of asking nicely. She said Stacie Barker is confrontational and rude at Council meetings, where she rolls her eyes and shakes her head. She said Stacie Barker is actually very pleasant in life. Ms. Van Tassel says Mr. Michalson isn’t a bully most of the time and can be quite nice, but he can also be mean, evil, and cruel to the staff and mayor. She says the Council is always nitpicking and looking for something to criticize.

Ms. Van Tassel also feels bullied by Jim Crews. He contacts her via email, and he is the only citizen to do that. He does so approximately every other day. She says Jim Crews is always correcting staff. She forwards these on to the Mayor for response. Ms. Van Tassel says she used to research issues for him, then

he would fail to show up for scheduled appointments. She thinks he did it to harass her. She felt bullied by him and felt he was a bad town leader.

Ms. Van Tassel thinks the staff worked well as a team and that they collectively support Mayor Dewey, but that they are being undermined by the Council.

8. Robin Holcolmb

Robin Holcolmb is a member of the Town Council in the first year of her third four-year term on the Council. She says this makes her the longest-serving Councilmember. Ms. Holcolmb states that the communication has always been bad at the Town of Stevensville, but that at the present time, it is the worst she has ever seen it. She says the Mayor currently simply refuses to email her. She says she sends him necessary emails and he simply refuses to email her back.

Ms. Holcombe says everyone is a little bit to blame for the current bad situation, but she especially thinks the Mayor is to blame. She states he has been caught in several lies. She says the Council attempts to hold the Mayor accountable for lies, which is the only reason the Council and Mayor have a negative relationship. Ms. Holcombe says the Mayor has been hostile to the Council since the beginning of his tenure as Mayor. She says the Mayor is constantly going through the Council's emails and reporting things to the paper in an effort to make the Council look bad. She believes the Town Council has been victimized by the Mayor.

Ms. Holcolmb also believes the staff is to blame for the hostile environment. She says that at many meetings the staff is hostile. She states that staff sometimes laugh at Mr. Michalson when he tries to make a motion at meetings. Ms. Holcolmb is angry about this complaint and thinks things should have been addressed promptly on a one-on-one basis.

Ms. Holcolmb says she feels the Council, by contrast, is polite. She feels the Council says "thank you" and "you're welcome" to staff and treats them well.

Ms. Holcombe does concede there may, occasionally, be instances of bad communication by all sides, including the Council. She says she has never seen the environment in the town government be this bad and she hopes all can work to improve it. She thinks communication has failed between everyone.

Ms. Holcombe denies she has ever seen any behavior by anyone at the Stevensville town government that would constitute bullying, harassment, or discrimination.

9. Stacie Barker

Stacie Barker has been on the Town Council for three years. She will have been on the Council for four years in January. Ms. Barker says she has lived in Stevensville for thirty years and became involved in the Town Council because she wanted to be more involved in the town and help to make the community better.

Ms. Barker says she hardly sends any emails and has very little contact with the clerks and town staff other than during the meetings.

According to Ms. Barker, there were no problems in the Town of Stevensville "until Audree came along." Also according to Ms. Barker, Ms. Tribbensee is to blame for the current bad situation because she failed to raise her bullying and harassment complaint within ten days. Ms. Barker says this is clearly a violation of the Town Personnel Policy. Ms. Barker states that Ms. Tribbensee "does an awesome job," but that she is just learning, that there is a lot of learning to be done, and that Ms. Tribbensee clearly has never dealt with being a clerk before. Ms. Barker states that her understanding has been that Ms. Tribbensee is the only one in the clerks' office (i.e., the only staff person) who has any complaints about communication.

Ms. Barker states she has never observed any behavior in the Stevensville town government that could be characterized as harassment, bullying, or discrimination, but she has seen some communication problems. Ms. Barker states that the Mayor could improve his communication. Asked if the Council could do anything to improve the communication problems in Stevensville, Ms. Barker states that, in her opinion, there is nothing the Council could do better. She says she does not believe the solution could or should start with the Council. In her view, the Mayor and the staff are the problems. She states that the Mayor is always blaming the Council and going to the press to attack the Council. She says there was a voluntary training and the Council stayed, but the clerks all left. To her, that illustrates the clerks just do not care about improving the problems.

Asked whether she had ever seen or heard of Bob Michalson bothering the staff, she stated that she had not, but that the Council needs him to go in to get information from the clerks during the day while the rest of the Council (currently Ms. Holcombe and Ms. Barker) works. So, in Ms. Barker's view, Mr. Michalson's frequent presence in the clerks' office is necessary.

Asked whether she was aware of clerks' complaints regarding Jim Crews following them in their free time, Ms. Barker angrily asked, "Is there

documentation of this?" The investigator responded that the question was whether she was aware of the eyewitness accounts. Ms. Barker responded that she would not believe the clerks' accounts without documentation, and further implied that she thought the clerks were lying about Mr. Crews. Ms. Barker says she has never seen "that side" of Mr. Crews, so she could not speak to it. She also says she is aware that Mr. Crews wrote a PowerPoint about bullying and harassment, so in her opinion, that makes it unlikely he could commit bullying or harassment.

10. Brian West

Attorney Brian West acts as legal counsel for the Town of Stevensville. Mr. West indicates he has only recently begun to attend Town Council meetings because of the ongoing communication problems and tension. He states he has not observed anything he would call bullying or harassment. Mr. West states that political factions seem to be at odds with each other and that the Mayor and Councilmembers "chip away at each other." Mr. West says there is tension in the air at Council meetings.

According to Mr. West, the emails back and forth between the Mayor and Council are often quite tense, and Ms. Tribbensee is privy to these emails. In Mr. West's view, Ms. Tribbensee sees herself as caught in the middle of this tension. Mr. West also points out that questions from Council and citizens tend to grate on the clerks, but notes that answering such questions is part of the clerks' job. Mr. West does not have an opinion regarding the causes of the town's communication issues.

B. Documents

The following documents were considered in this investigation:

- 1. Audree Tribbensee Bullying and Harassment Complaint, Dated October 4, 2018;**

Ms. Tribbensee thoroughly documents a history of tense, often terse, and at times outright hostile, communications that have occurred between Councilmembers and herself, and between Councilmembers and the Mayor, since Ms. Tribbensee started working for the town of Stevensville. She also thoroughly documents physical symptoms she has experienced as a result of communications with Councilmembers, including headaches and stomach upset.

- 2. Town of Stevensville Personnel Policy Manual, adopted May 22, 2017.**

3. Affidavit of Audree Tribbensee, dated September 21, 2018, regarding deletion of Dropbox documents by Bob Michalson;

This and the next two documents were given by Ms. Tribbensee to the investigator to support her claim that Mr. Michalson deleted more than 500 files from the town's common Dropbox folder.

4. Affidavit of Audree Tribbensee, undated and unsigned, regarding deletion of Dropbox documents by Bob Michalson;

5. Documentation labeled "500 deleted files – Examples"

6. Email from Audree Tribbensee to Brian West, October 11, 2018

Audree Tribbensee forwarded to the investigator an email sent by her to Brian West on October 11, 2018, detailing what she and others perceived to be intimidating behavior by Jim Crews and Bob Michalson in connection with a court appearance by former Councilmember Ray Smith.

7. Email from Brandon Dewey to Malin Johnson, November 11, 2018.

Brandon Dewey emailed the investigator to describe a meeting he had held with staff department heads, resulting in the Public Works Director raising additional complaints to the Mayor regarding Jim Crews. According to the email, Mr. Crews followed the public works employees around town, and the Public Works Director feared additional harassment by Mr. Crews.

VI. Relevant Law and Policy Provisions

A. Bullying

The Town of Stevensville's Personnel Policy Manual's section entitled "Bullying," has two subsections: "Definition" and "Training." The manual defines workplace bullying, but it does not include any language prohibiting or preventing bullying. The manual also prescribes annual training. Although it may have been intended to prevent bullying, the manual as written does not include any prohibition of workplace bullying.

Ms. Tribbensee's Complaint does not cite, and the investigator is not aware of, any legal prohibition against bullying. Ms. Tribbensee cites Wikipedia in her Complaint as stating that "workplace bullies often operate within the established rules and policies of their organization and their society." This is an accurate

statement. The investigator is unaware of any legal or policy prohibition against bullying that applies in this case to protect Ms. Tribbensee or any other employee in the Stevensville town government.

B. Harassment

The Town of Stevensville Personnel Policy Manual states that, “[i]t is the policy of the Town of Stevensville that harassment, based on a protected class will not be tolerated.” In the “Definitions of Harassment,” section, “Sexual Harassment” is defined, then “Other Harassment” is defined as “[h]arassing behavior based on any other protected characteristic.” Similarly, the investigator is unaware of any law against harassment that does not require demonstration of protected class status, and prohibited behavior based on that status, as a threshold requirement of any showing of legally-protected harassment.

C. Retaliation

The Town of Stevensville Personnel Policy Manual states that “[n]o hardship, no loss or benefit, and no penalty may be imposed on an employee as punishment for . . . [f]iling . . . a bona fide complaint of discrimination or harassment[.]” The Manual further states: “Please report any retaliation to your supervisor, or the Mayor designee, within 10 calendar days of occurrence.”

Under existing United States law, an employer’s action constitutes retaliation if it would dissuade a reasonable person from complaining about discrimination or harassment, and may include threats of termination. *See Burlington Northern Santa Fe v. White, cite, Burlington N. & Santa Fe Ry. Co. v. White*, 548 U.S. 53, 57 (2006); *Rattigan v. Holder*, 604 F. Supp. 2d 33, 52–53 (D.D.C. 2009).

D. Other Relevant Law

Montana’s Wrongful Discharge from Employment Act states that a “discharge” includes a “constructive discharge.” Mont. Code Ann. 39-2-903. A “constructive discharge” is defined as “the voluntary termination of employment by an employee because of a situation created by an act or omission of the employer which an objective, reasonable person would find so intolerable that voluntary termination is the only reasonable alternative.”

VII. Analysis of Evidence

A. Timing/Sufficiency of Complaint

Some councilmembers questioned the timeliness of Ms. Tribbensee's Complaint. The only time limit for reporting in the Personnel Policy Manual is in the section relating to retaliation, which reads: "Please report any retaliation to your supervisor, or the Mayor or designee, within 10 calendar days of occurrence." Ms. Tribbensee reported her alleged retaliation within fewer than 10 calendar days after it occurred.

There are no time limits for reporting in the Manual sections about harassment, discrimination, and bullying. It is likely the Town intended or intends some limit, such as the 10-day time limit, to apply to these sections; however, there is currently no time limit. The Manual should therefore be rewritten to include time limits for discrimination, harassment, and bullying complaints.

The Manual states that "[a]ny employee who perceives a conversation or event as harassment, whether the employee is involved or merely observing, should explain to the offender in a calm, but firm manner that the action is perceived as inappropriate and the employee wishes the behavior to stop. Should the behavior continue, the employee should report the activity to their supervisor, or the Mayor or designee."

Although it does not appear that Ms. Tribbensee followed these procedures by first approaching the Councilmembers, telling them their actions were inappropriate, and explaining that she wishes the behavior to stop, it also appears from the use of the word "should" that these procedures are optional. Ms. Tribbensee does not appear to have violated the Manual by proceeding directly to a Complaint to the Mayor. Ms. Tribbensee's Complaint appears both timely and sufficient under the Manual, and it must be duly investigated.

B. Bullying and Harassment Generally

Ms. Tribbensee's Complaint is based on bullying and harassment. Bullying does not appear to be prevented by either law or by the Town of Stevensville's Personnel Policy Manual. "Bullying" is given its own section, where it is defined, and annual training is prescribed, but bullying is not explicitly prohibited. It seems likely that the Town intended to prohibit bullying when it included a section on bullying in its Personnel Policy Manual. Therefore, this section should be revisited and rewritten to determine what conduct, if any, the town intends to prohibit.

Ms. Tribbensee's Complaint also alleges harassment. Under both law and policy, a harassment complaint requires a showing that the harassment be "based on a protected class status." While some of Ms. Tribbensee's Complaint alleges sexual and gender-based harassment, and one incident involves a race-based comment, addressed below, most of Ms. Tribbensee's Complaint alleges bullying and harassment of a more general nature (i.e., not based on protected class status).

In other words, Ms. Tribbensee's Complaint mostly alleges general bullying and general harassment, which are not barred by law or Town of Stevensville Policy.

It should be noted that, if bullying were effectively prevented by policy, it is at least arguable that Mr. Michalson's words and actions, and occasional comments, emails, and body language by Ms. Barker, could meet the Town's definition of bullying. The staff characterizes Mr. Michalson and Ms. Barker's words and actions as intimidating and undermining. It is conceivable that reasonable minds could find that the Council violated its own personnel policies by allowing Mr. Michalson and Ms. Barker to speak to the staff in a way the staff finds threatening and humiliating. There is no evidence that Ms. Holcolmb engaged in conduct that could be construed as bullying or harassment.

It should also be noted that many of the bullying and harassment allegations are specifically against former mayor, now citizen, Jim Crews. While the Council certainly should not encourage harassing action by Mr. Crews (e.g., Mr. Michalson should not ride with Mr. Crews while he follows Town employees), there is no reason for the investigator to attribute Mr. Crews's conduct to anyone who works for or represents the Town government. Mr. Crews is a private citizen, so remedies for any harassment or bullying on his part would have to come from the police or through civil remedies, such as an order of protection.

C. Race Discrimination

After the Council's September 10, 2018, meeting, Ms. Tribbensee alleges that Mr. Michalson asked her, "Are you tribal?" She said, "What?" He repeated the question "Are you tribal?" She said, "No." Ms. Tribbensee says, shortly after that, she introduced him to her husband, Robert. Upon learning that they had the same names, Mr. Michalson asked "Does your middle name start with a J?" to which Mr. Tribbensee also responded yes. Ms. Tribbensee says Mr. Michalson then said, "maybe we are sleeping with the wrong wives." She says she was deeply offended, shocked and embarrassed by his comment.

Mr. Michalson admits asking Ms. Tribbensee if she is tribal. He states that he is a member of the Fort Belknap Indian tribe, and he wondered if she, too, was

Native American. Mr. Michalson denies stating "maybe we are sleeping with the wrong wives" or anything about sleeping with anyone. Multiple witnesses interviewed by the investigator stated they heard Mr. Michalson make this comment.

Mr. Michalson, a tribal member, was asking if Ms. Tribbensee was also a Native American. Ms. Tribbensee states that the word "tribal" has negative connotations in Arizona, but there is no reason to find that "tribal" is an objectively offensive term, particularly when raised by a tribal member. Although Ms. Tribbensee was deeply offended, it does not appear this was a racially discriminatory remark. At most, it was inappropriate for Mr. Michalson to be discussing issues of race in the workplace.

D. Sexual Harassment and Sex Discrimination

Relative to sex discrimination and sexual harassment, Ms. Tribbensee was primarily offended by the "sleeping with the wrong wives" comment. Ms. Tribbensee further alleges that the following comments demonstrate gender discrimination: "hire a new woman and the first thing she does is re-arrange the furniture;" "the ladies in the office get beat up;" "Council has the right to access you ladies;" "you are just secretaries." She attributes these statements variably to Mr. Michalson, Mr. Crews, and Dawn Geiger, Mr. Michalson's wife.

Although Mr. Michalson denies making the "sleeping with the wrong wives" comment, the investigator believes Ms. Tribbensee and the multiple eyewitnesses who state they heard him say it. Mr. Michalson's comment was objectively inappropriate and Ms. Tribbensee's offense seems justified. However, it does not appear to rise to the level of sexual harassment in the workplace. Further, while Ms. Tribbensee states that some of the "ladies in the office" comments are attributable to Mr. Michalson, it is not clear how many of them came from Mr. Michalson and how many from Mr. Crews and Ms. Geiger (both citizens, not councilmembers or Town employees). These comments, though arguably demeaning and inappropriate, do not likely rise to the level of sexual harassment or sex discrimination.

E. Retaliation

Ms. Tribbensee raised a supplemental allegation of retaliation during the pendency of her original Complaint. Ms. Tribbensee states that Mr. Michalson approached her while her Complaint was pending and reminded her that she was a probationary employee whose job could be terminated at any time, including for filing a complaint. Mr. Michalson admits telling Ms. Tribbensee that she is a

probationary employee whose job could be terminated at any time, but he denies telling her she could be terminated for filing a Complaint.

Given the timing of his threat, it appears that Mr. Michalson retaliated against Ms. Tribbensee for filing a Complaint by telling her that her job was probationary and reminding her that she could be terminated at any time, with or without cause. Ms. Tribbensee complained to the investigator about this action within ten days of its occurrence.

Mr. Michalson should promptly apologize to Ms. Tribbensee and make clear to her that she cannot, in fact, be terminated for filing a Complaint. The Town should further take steps to ensure that Ms. Tribbensee is not further retaliated against, such as by being disciplined or terminated because of her Complaint.

F. Toxic Work Environment/Intolerable Situation

Audree Tribbensee has been Stevensville's Town Clerk since July of this year. During that time, she has amassed significant documentation of communication between herself and the Town Council, and between the Town Council and Mayor, which is tense, terse, and at times arguably hostile. Ms. Tribbensee states she "considers the work environment "to be intimidating, hostile and/or abusive." She blames "Mr. Michalson and other Councilmembers" for asking questions in a manner that is "belittling, negative, accusatory, and hostile."

Many of Ms. Tribbensee's complaints against the Council are subtle or even inconsequential, such as "refer[ring] to the Town's office members as 'she,'" pointing fingers in an accusatory way, asking repeated questions, or glaring at staff during Council meetings. She says Councilmembers are often not friendly or approachable. Ms. Tribbensee cites harsh tones and intimidating body language (e.g., crossed arms). Several of Ms. Tribbensee's complaints appear to be about good faith, though tense and unpleasant, disputes over rules between her or the Mayor and Council. She says the Council has a right to address errors, but states that it does so in a "gotcha" tone.

Other complaints by Ms. Tribbensee about the Council seem to be more serious. She cites some emails from Bob Michalson and from Stacie Barker that are clearly written in a tone that is outright hostile to either the Mayor or to staff. Ms. Tribbensee provided a screenshot of a facebook post from Bob Michalson stating that "Dewey spends like a drunken sailor but no \$\$ for council laptops. Hmmm." This post is clearly inappropriate. At times, Mr. Michalson and Ms. Barker's behavior appears unjustifiably hostile and aggressive toward the Mayor and staff.

According to every witness interviewed other than Stacie Barker, Stevensville is a town government with a long history of communication problems. For reasons that did not become clear during this investigation, there clearly exists poor and often negative communication between the Town Council and the town staff. Further, the occupant of the mayor's office seems to be consistently unsettled, as the office has significantly turnover (according to Denise Philley, approximately one mayor per year for the last ten years). In addition, the staff report experiencing general dissatisfaction at all times with communication from the Council and public. It seems that, long before Ms. Tribbensee's current complaint, an environment of tension and hostility existed in the Stevensville town government.

Nearly everyone interviewed agreed that some blame should be shared by all those involved in the current communication crises, including the Town Council, the Mayor, and the staff. Only Stacie Barker seemed to think that she and the Council could not improve their communication. The willingness of most parties to recognize their own role in the conflict and take strides toward fixing the situation was a positive aspect of the investigation. Ms. Barker's insistence that the blame rests solely with the Mayor and staff, and that the Council had no room for improvement, was of great concern in this investigation. It appears Ms. Barker is overly reluctant to accept the existence of what all others agree is a toxic work environment that must promptly be remedied by action of the Council.

All staff interviewed, the Mayor, and the town attorney, expressed some concern regarding poor communication by the Town Council. Ms. Tribbensee alleged that hostile communication from Bob Michalson had left her physically ill. Brandon Dewey alleges that Council has created a toxic work environment. Denise Philley says the Council is hostile and unproductive. Britnee Rhodes called the Council "aggressive" and the Council meetings "tense." Jenelle Berthoud says the Council is "hostile" and "unruly." Everyone expressed some sentiment regarding poor or toxic communication by the Council.

The Councilmembers interviewed blamed the Mayor for most of the communication problems in the town. The Mayor recognized he had some responsibility. The staff did not blame the Mayor. It appears the Mayor can make some effort to improve his communication with the Council, that doing so will improve Council's communication with the Mayor, and that these steps will improve working conditions for the staff.

This investigation revealed that nearly every employee interviewed believes the problem is poor – characterized as hostile, aggressive, tense, critical, and negative – communication by and between the Mayor, Council, and staff.

The communication situation in the Stevensville town government could reasonably be characterized as a situation so intolerable that a reasonable person could not be expected to endure it. If one or more individuals on staff decides to leave the Town and sue for constructive discharge, the Town is likely to face significant liability. This intolerable situation must be recognized by the Council and Mayor and remedied by immediate, conscious efforts on the part of both the Council and Mayor to improve their communication with one another and with the staff.

VII. Findings

The investigation resulted in the following findings:

1. Audree Tribbensee's allegations of bullying and harassment against Town Council members Bob Michalson, Robin Holcolmb, and Stacie Barker, and against citizen Jim Crews, are not sustained;
2. Ms. Tribbensee's supplemental allegation of retaliation for filing a complaint against Councilman Bob Michalson is sustained;
3. The investigation revealed a work environment that most staff perceive as toxic and intolerable and which, if not resolved, has the potential to result in liability to the Town in the form of a constructive discharge claim and possibly multiple such claims; and
4. The Town's policies regarding bullying, harassment, discrimination, and retaliation are insufficient, both in how they are written and in how they are implemented.

VII. Recommendations

The investigation recommends the following:

1. The Town of Stevensville should consider instituting changes to its personnel policies involving bullying, harassment, and retaliation, including preventing bullying, possibly addressing non-protected class harassment, and providing time limits for complaints of bullying, harassment, and discrimination.
2. Bob Michalson should promptly apologize to Audree Tribbensee for telling her that she was a probationary employee whose job could be terminated for any reason, and either stating or implying that she could be terminated

for filing a valid harassment and discrimination Complaint. Mr. Michalson must make clear to Ms. Tribbensee that she cannot be terminated for filing a Complaint, and he must refrain from further acts of retaliation.

3. The Town of Stevensville should implement frequent and regular mandatory training regarding workplace culture, including how to avoid bullying and harassment and how to create and maintain a healthy work environment.
4. The Stevensville Town Council and Mayor should immediately focus efforts on positive and productive communication, including substance, tone, and body language – with each other and with staff – so the work environment does not continue to deteriorate, and instead improves, for the Town staff.

April 10, 2019

Mayor Brandon E. Dewey
Town of Stevensville
206 Buck Street
Stevensville, MT

RE: Grievance/Complaint against Councilmember Barker

Dear Mayor Dewey,

Please accept this letter as an official grievance/complaint against Mrs. Barker for on-going harassment, intimidation, bullying and retaliation.

Councilmember Barker filed a complaint dated April 5, 2019 accusing me of insubordination; this complaint is in retaliation to my complaint filed on March 29, 2019 against Mrs. Barker for breach of the newly adopted Council Code of Conduct. This is also another example of retaliation stemming from my October 4, 2018 complaint. Mrs. Barker's April 5, 2019 claim is filled with inaccurate information and blatant lies accusing me of wrong doing. Mrs. Barker's memorandum and its contents are further examples of on-going bullying and harassment of me by certain members of the Stevensville Town Council. Mrs. Barker's recount of the March 29, 2019 event falls woefully short of the truth of what actually happened and instead she tries to paint a picture where she is the victim, which is simply a fabrication of reality. Please see my March 29th complaint of the event for an accurate narrative.

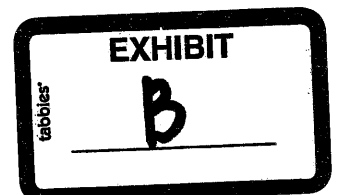
My grievance today is in regards to the negative comments and/or false statements made by Mrs. Barker at Council's March 14, 2018 and March 28, 2019 meetings as well as the hurtful, negative, statements made immediately following the March 28, 2019 Council meeting. This grievance also includes Mrs. Barker's April 5, 2019 complaint against me.

Mrs. Barker's actions, both verbally and in writing, violate my rights as a Town of Stevensville Employee and my human rights as an individual. Additionally, these actions also violate my rights outlined in the Town of Stevensville Personnel Policy, including but necessarily limited to:

Section 4, Diversity, Harassment and Bullying Prevention, item D, Workplace Bullying and Prevention:

"Definition. Workplace Bullying is repeated, health-harming mistreatment of one or more persons (the targets) by one or more perpetrators that takes one or more of the following forms:

- *Verbal abuse*
- *Conduct which is threatening, humiliating, or intimidating*
- *Work interference, sabotage, which prevents work from getting done*
- *Exploitation of a known psychological or physical vulnerability*



“Workplace bullying can generally be considered as negative acts directed toward employees. However, acts of bullying may also include negative acts towards supervision. These include but are not limited to:

- *Intimidating or undermining employees or supervisors by demeaning their work standards, not giving them credit, setting them up for failure and constantly reminding them of old mistakes*
- *Threatening employees’ or a supervisor’s personal self-esteem and work status.*
- *Isolating employees/co-workers from opportunities, information and interaction with others.*
- *Giving impossible deadlines, creating undue pressure and stress, and overworking employees.”*

Mrs. Barker’s actions on March 14, 2019, March 28, 2019 and her subsequent April 5, 2019 memorandum regarding my complaint dated March 29, 2019 violate this section of the Personnel Policy in the following ways:

- Mrs. Barker is verbally abusive, her words and actions are threatening, humiliating and intimidating. Specific examples are provided in my March 29, 2019 complaint and included in her April 5, 2019 insubordination memorandum.
- Mrs. Barker is interfering and sabotaging my work.
- Mrs. Barker’s bullying words, both in writing and verbally, are negative acts directed towards me.
- Mrs. Barker is trying to undermine me and my work by demeaning my work standards, not giving me credit and setting me up for failure with her personal and unreasonable expectations concerning minutes.
- Mrs. Barker’s actions threaten my personal self-esteem and work status.
- Mrs. Barker has independently, outside of any law, policy, regulation or Council direction, set a nearly impossible deadline, creating undue pressure and stress on me as well as causing me to regularly work overtime. *(It is important to note, that when I pointed this out to Mrs. Barker on March 28th after the Council meeting, she told me she did not care, I knew what the job was when I accepted the position, that she had no sympathy or compassion for me, and told me I was a liar and she was tired of my excuses.)*

Section 21, Workplace Violence - *“The Town of Stevensville will take appropriate, prompt actions against any employee who engages in any threatening or intimidating behavior or acts of violence or who uses any obscene, abusive, or threatening language or gestures.”* Mrs. Barker’s actions are “intimidating behavior” as she is clearly trying to intimidate me in response to my March 29th complaint and further discredit, humiliate and intimidate me. The underlying tone of Mrs. Barker’s memorandum is threatening in nature as it implies that the Mayor should take action in accordance with the “Violations” section of the Personnel Policy. Mrs. Barker attached and highlighted the language in this section, which states: *“Violations of the Professionalism Policy,*

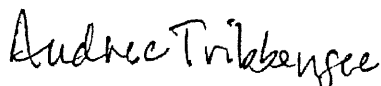
including failure to report potential violations by others will be viewed as a severe disciplinary matter that may result in personnel action including termination of the employee."

Mrs. Barker's continued bullying and harassment is exhausting, demoralizing not only to me, but my teammates as well. Mrs. Barker is untruthful in her statements; she continues to try and humiliate and intimidate me. Additionally, it is important to note that Mrs. Barker along with other Councilmembers continue to place items on Council's agenda that directly and indirectly negatively affect me and/or wrongfully accuse me. Mrs. Barker's agenda items which include back-up material that contains false and misleading statements about me and/or my work product are other examples of Council's ongoing attempts to bully, harass and threaten me, my reputation and my employment with the Town of Stevensville. These actions in the public arena, which are part of the public record, have required me to speak publicly to defend my reputation and correct the record to provide factual information. I do not like or enjoy being placed in this type of position.

Further, the Town of Stevensville Personnel Policy provides for retaliation, stating that *"No hardship, no loss or benefit, and no penalty may be imposed on an employee as punishment for: filing or responding to a bona fide complaint of discrimination or harassment... Retaliation or attempted retaliation is a violation of this Policy and anyone who does so will be subject to disciplinary actions, up to and including termination."* It goes without saying that my October 4, 2018 claim was a bona fide complaint of discrimination and harassment, and ultimately substantiated by you, as the Mayor and my supervisor. Unfortunately, Council continues to take steps that are retaliatory in nature and it appears that Council is trying various ways to punish me for submitting both the October 2018 and March 2019 complaints against Council and Mrs. Barker.

In summary, Mrs. Barker's action on March 14, 2019, March 28, 2019 and her April 5, 2019 memorandum are in retaliation to my October 4, 2018 bullying and harassment complaint and my recent March 29, 2019 complaint. I am respectfully requesting that Mrs. Barker and Council discontinue its negative, harmful, relentless bullying tactics. We are all here to conduct the Town's business, this persistent assault on me is unacceptable and cannot be tolerated.

Thank you,



Audree Tribbensee

Attachments:

April 5, 2019 Barker Memorandum

March 29, 2019 Tribbensee Complaint

March 14, 2019 Council Approved Meeting Minutes, excerpt

March 28, 2019 Council Meeting Minutes, excerpt

Confidential Not for Public Release

4/8/19
LAWRENCE

8:50 am

Confidential Not for Public Release

Confidential Not for Public Release

To: Brandon Dewey
Mayor of the Town of Stevensville
206 Buck St
Stevensville, Montana 59870

April 5th, 2019

From: Stacie Barker
Council Member Ward 1
104 Winslett Ave
Stevensville, Montana 59870

Subject: Insubordination by the Town of Stevensville Clerk

Mayor Dewey,

On March 28th, 2019 after the regularly scheduled Town Council Meeting, I was confronted by Audree Tribbensee, the Town Clerk in a very insubordinate and aggressive manner.

My complaint is that the Clerk was insubordinate by confronting me in public after a council meeting after I told her I was not interested in engaging in a discussion with her and she proceeded to block my exit preventing me from leaving the Council Chamber.

I told her no, I do not have time to engage in a discussion with her. She blocked my exit and proceeded to carry on with the discussion which I was forced to participate despite my attempt to disengage from the confrontation she presented.

It is not within the purview of the Town Council to discuss personnel issues regarding job performance directly with a town employee. Despite this, the Clerk proceeded to attempt to keep me engaged in the conversation.

The Clerk did not discuss this conversation with her immediate supervisor prior to engaging me in this action. I felt compelled to respond in a protective and defensive manner as she pressed me for action and further discussion.

I felt affronted by her forceful actions to engage me in the conversation. I felt threatened by her behavior and proximity to me. I am offended that she violated her chain authority by trying to dissuade me from my beliefs by engaging me in a public display.

As a Council Member I am not in her chain of authority. You the Mayor are and you took no action to stop this confrontation that happened in your presence.

The Clerk chose to instigate this confrontation in front of other members of the Council, you and the citizens present.

Confidential Not for Public Release

As a Council Member, I feel that certain aspects of the Office of the Clerk are not being performed to the satisfaction of the Council, and you the Mayor apparently do not see the situation.

The Minutes of the Council are vitally important and are a legal record of the actions of the Council. As such they must be kept up to date and available for the Public and the Council. The maintenance of the Minutes in fact are a prescribed duty of the Clerk.

Refer to the Town Code 2-126 (12)

To attend all meetings of the council, to record and sign the proceedings thereof

The Minutes have not been up to date since the Clerk came into office. Unfortunately, we the Council have been trying to tell you this, but it seems to be falling on deaf ears. I had to make a statement so that this problem can be brought to light and resolved in an effective and efficient manner. The Clerk obviously took offense to my comments. They are, Council Comments. Council has the authority and right to make comments regarding the performance of all aspects of the Town government.

The fact that the Clerk chose to affront me after the Council meeting has deeply offended me and disturbed me in that she did so in a very unprofessional and aggressive manner by refusing to allow me to leave the Council meeting after the meeting was adjourned and after I had told her I did not have time to discuss it with her.

In the Clerk's complaint she accused me of violating the newly approved Code of Conduct. The Code of Conduct was adopted by Resolution. A Resolution that may have been voted on by the Council but was not effective at that time as it was not signed by the Mayor or the Clerk and entered into the Resolution book.

In accordance with the Town Of Stevensville Personnel Policy Manual, I feel that the Clerk has been Insubordinate as defined on page 2 of the manual and has violated the Professionalism Policy as delineated in the Personnel Policy Manual, specifically 46.A.2) 3rd bullet, 46.A.3 1st and 4th bullet.

Signed,



Stacie Barker

Town Council Member Ward 1

Town of Stevensville Personnel Policy Manual

46. Professionalism Policy

This Professionalism Policy is applicable to all Employees of the Town of Stevensville.

A. Code of Ethics

- 1) The Town requires ethical conduct in any and all activities that impact the wellbeing of our Town, which the Employees represent.
- 2) Employees hold important roles in local government. They are positioned to ensure that the Town's interests are balanced, protected and preserved. This Code provides principals that Employees must adhere to and advocate. This Code is designed to deter wrongdoing and to promote:
 - Honest and ethical conduct including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
 - Full, fair, accurate, timely and understandable disclosures in reports and documents;
 - Compliance with applicable governmental laws, rules and regulations;
 - The prompt internal reporting of complaints to their Supervisor; and
 - Accountability for adherence to this Code.
- 3) Employees will:
 - At all times interact with all elected officials, town officers, department heads and/or supervisors without being insubordinate.
 - Act at all times with honesty and integrity, avoiding actual or apparent conflicts of interest in personal and professional relationships.
 - Discuss with their Supervisors, in advance, any transaction that reasonably could be expected to give rise to a conflict of interest.
 - Comply with the Town's Personnel Policy Manual.
 - Act in good faith with due care and diligence and without knowingly misrepresenting material facts.
 - Protect and respect the confidentiality of information acquired in the course of their work except when authorized or legally obligated to disclose. Confidential information acquired in the course of their work will not be used for personal advantage.
 - Be recognized as a responsible colleague among fellow employees.
 - Responsibly use time and resources employed or entrusted to their supervision.

Town of Stevensville Personnel Policy Manual

- Promote and be an example of ethical behavior as a responsible Employee or Supervisor in the work environment and the community.
 - Promptly report to their Supervisor any conduct that the individual believes to be a violation of the law, the Town of Stevensville **Professionalism Policy**, or the Town of Stevensville **Personnel Policy Manual**, including the circumstance or relationship that reasonably could be expected to give rise to such conflict;
- 4) It is against the Town's policy to retaliate against any employee for good faith reporting of violations of this Code.

B. Conflict of Interest

- 1) The underlying principle of "conflict of interest" is that Employees should avoid any activity, investment or interest that might reflect unfavorably on the reputation of the Town of Stevensville.
- 2) As representatives of the Town of Stevensville, Employees are obligated to place the interest of the Town, in any transaction involving the Town, ahead of any personal interest or personal gain, and to disclose all facts in any situation where a potential conflict of interest may arise.
- 3) Employees may not engage in a transaction, use public or confidential information, improperly influence a decision or transaction, or take any other action in regard to their position as an Employee of the Town of Stevensville that would create a personal economic or other benefit to the Employee.
- 4) Employees are expected to seek clarification of and discuss any questions about potential conflict of interest with their Supervisor and the Mayor.

C. Confidentiality

- 1) Employees are expected to protect and maintain confidentiality regarding the Town's property including cash, equipment, records, and employee and/or customer information.
- 2) Employees shall not disclose or use confidential information acquired in the course of official duties.

D. Violations

Violations of the Professionalism Policy, including failure to report potential violations by others will be viewed as a severe disciplinary matter that may result in personnel action including termination of employment.

Town of Stevensville Personnel Policy Manual

Insubordination – Anyone that threatens or assaults an elected official, town officer or supervisor, disobeys, challenges the order of a legally empowered town officer or supervisor, treats with contempt or is disrespectful in language or deportment toward an elected official, town officer or supervisor when the elected official, town officer or supervisor is in the execution of their office commits insubordination.

Insubordination is the act of willfully disobeying one's superior. Refusing to perform an action that is unethical or illegal is not *insubordination*; neither is refusing to perform an action that is not within the scope of authority of the person issuing the order.

Insubordination can manifest itself as a verbal refusal, a nonverbal refusal or an unreasonable delay in completing work. Insubordination includes disrespectful behavior toward an elected official, town officer or supervisor and includes cursing at an elected official, town officer or supervisor, verbally or physically intimidating or bullying a town officer or supervisor, or speaking loudly or argumentatively to or about an elected official, town officer or supervisor.

Insubordination includes knowingly disobeying Council Resolutions/Policies, the Town of Stevensville Municipal Code, the Montana Code Annotated and Federal Law.

Leave Without pay - Any approved time off that is not charged to annual leave or sick leave.

Nonexempt Employee - A nonexempt employee is an employee who, according to the FLSA is entitled to receive at least minimum wage and receive overtime pay or overtime compensatory time after the employee has worked 40 hours in a work week period. Overtime pay is equivalent to one and one-half times the employee's regular hourly pay for each hour over 40 hours worked. Compensatory time is equivalent to one and one-half times the employee's number of hours worked for each hour over 40 hours worked. The FLSA provides for certain exemptions for employees employed in a bona fide executive, administrative or professional capacity.

Regular Full-Time Employee - An employee who normally works 40 hours a week. Regular full-time employees are eligible for all employee benefits.

Regular Part-Time Employee - An employee who normally works less than 40 hours a week. Regular part-time employees are eligible for limited benefits on a prorated basis.

Remote Employee - An employee who performs the majority of their work in a location different from where Town of Stevensville general operations occur. They may or may not be covered under the provisions of the FLSA, depending on the status of their employment, and have specific conditions of employment outlined in their respective employment agreements.

Seasonal Employee - An employee designated as seasonal at time of hire, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season. The employee is not eligible to become a regular employee without completing a competitive selection process. A seasonal employee may be eligible for limited or prorated benefits.

P.O. BOX 358
STEVENSVILLE, MT. 59870-0358
APRIL 5, 2019

RE: MARCH 28TH. STEVENSVILLE TOWN COUNCIL MEETING

I ATTENDED THE MARCH 28TH. STEVENSVILLE TOWN COUNCIL MEETING. ON THE AGENDA WAS THE CODE OF CONDUCT, RESOLUTION #444, - WHICH WAS PASSED BY THE COUNCIL.

AT THE END OF THE MEETING THE COUNCIL PEOPLE HAD A CHANCE TO MAKE COMMENTS. ROBIN HOLCOMB SAID WHAT SHE HAD TO SAY. AND THEN STACIE BARKER MADE COMMENTS. ONE COMMENT SHE HAD WAS TO SAY THAT THE TOWN CLERK, AUDREE TIBBENSEE HAD NOT FINISHED WRITING UP THE MINUTES OF PAST MEETINGS, DESPITE HAVING MOVED THE MEETINGS OF TOWN COUNCIL TO A DIFFERENT DAY.

MAYOR BRANDON DEWEY CLOSED THE MEETING AND THE COUNCIL PEOPLE WERE PACKING UP THEIR THINGS TO LEAVE. I AND ANOTHER PERSON WERE ON OUR WAY OUT OF THE MEETING WHEN I SAW AUDREE RUSH OVER TO STACIE AND ATTEMPTED TO POINT OUT ON THE CALENDAR BEHIND STACIE WHY AUDREE'S SCHEDULE HAD PREVENTED HER FROM COMPLETING HER TASKS IN A TIMELY MATTER. STACIE WAS TRYING TO LEAVE AND GO HOME, AS SHE HAD WORKED ALL DAY AT HER JOB AT SUPER 1. STACIE TOLD AUDREE THAT WHEN SHE WAS GIVEN A JOB, SHE DID IT. BUT AUDREE KEPT ON TALKING AND DELAYING STACIE WHO IS TO LEAVE ONCE THE TOWN MEETING IS OVER.

STACIE THEN LEFT, AND I HEARD AUDREE TURN TO MAYOR BRANDON DEWEY AND MAKE A STATEMENT THAT SHE WAS GOING TO BRING A GRIEVANCE AGAINST STACIE. AT THAT POINT IT SHOULD HAVE BEEN MAYOR BRANDON DEWEY'S JOB TO INTERVENE AND STOP AUDREE'S COMPLAINING.

THE CODE OF CONDUCT RESOLUTION WHICH HAD BEEN PASSED IN THE MEETING WAS NOT FINAL UNTIL IT HAD BEEN SIGNED THE DAY FOLLOWING THE MEETING. STACIE WAS WITHIN HER RIGHT TO SPEAK TO AUDREE AS AN EMPLOYEE OF THE TOWN OF STEVENSVILLE.

CITIZEN OF STEVENSVILLE,

Susan G. McCreary
(SUSAN G. McCREARY)

To Whom It May Concern
April 6, 2019:

On March 28, 2019 I attended the Stevensville Town Council meeting. At the end of the meeting I witnessed harassment on the part of Audree Tribbensee against Stacie Barker. Mrs. Barker stated that she was not impressed by Mrs. Tribbensee's lack of effectiveness as Stevensville Town Clerk. After the meeting Mrs. Tribbensee went to Mrs. Barker's chair and began harassing Mrs. Barker as to why things were not going well at the Town Clerk's Office.

Mrs. Tribbensee started to explain about the change of meeting nights from Tuesday to Thursday, to which Mrs. Barker responded that this is what the Mayor and the Town Clerk wanted. The situation in question is the lack of experience that Town Clerk has exhibited in her job. The Mayor hired Mrs. Tribbensee to be the Town Clerk, however her field of expertise is in economic development. It is true that anyone can be a town clerk, that said, it takes years of experience to be an effective clerk. Mrs. Tribbensee in my opinion does not possess the kind of experience it takes to be an effective town clerk. This is exhibited by the agenda for the April 11 Town Council meeting. There are four sets of minutes that need to be approved, only one of the sets of minutes is from the last meeting, the rest are from prior meetings, including a meeting from clear back in January. I believe this shows a lack of experience on Mrs. Tribbensee's part.

It is my understanding that Mrs. Tribbensee was hired to be the Town Clerk. In my opinion, there seems to be a pre-arranged plan to move her from the clerk's position to the Zoning Administrator. This can be verified by the recent reorganization plan put forth by the Mayor. It says that the Town Clerk has assumed the full duties of the Zoning Administrator and supervisory roles as well. This was done without the Council's knowledge and consent as the reorganization plan was rescinded at the time of these changes. I wonder how an employee with less than a year on the job could jump to a supervisory position after not being effective in her job?

Sincerely,

A handwritten signature in black ink that reads "Mark Adams". The signature is written in a cursive, flowing style.

Mark Adams

March 29, 2019

Mayor Dewey,

At Council's March 28, 2019 meeting, Councilmember Barker acted in a manner inconsistent with the newly adopted Code of Conduct for Elected and Appointed Officials and Citizens Interaction. The Code of Conduct states: *"This Code is designed to describe the manner in which all elected and appointed officials should treat one another, Town staff, constituents, and others they come into contact with while representing the Town of Stevensville. Stevensville's Town Council adopts this Code to assure that all elected and appointed officials, while exercising their office, conduct themselves in a manner that will instill public confidence and trust in the fair operations and integrity of Stevensville's Town government."*

In accordance with the procedures outlined in this Code of Conduct, Section B.2, please accept this letter as an official complaint regarding Councilmember Barker.

During the March 28th meeting Councilmember Barker made disparaging public remarks about me in my position and my work performance under agenda item "Town Council Comments". I perceived her comments to be a personal charge upon my character. This is a violation of the Code of Conduct for Elected and Appointed Officials and Citizens Interaction.

Code of Conduct, Section 1, General provides: "The professional and personal conduct of Members while exercising their office must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, personal charges or verbal attacks upon the character or motives of other members of Council, Boards, Committees, Commissions, staff or the public. Members shall support the maintenance of a positive and constructive workplace environment for its members, the Mayor, Town staff and for citizens and businesses dealing with the Town. Members shall conduct themselves when dealing with Town employees to, in no way, create the perception of inappropriate direction to staff. Members shall perform their duties in accordance with the processes and rules of order established by the Town Council with respect, courtesy and integrity."

Code of Conduct, Section A.4, Elected and Appointed Officials' Conduct with Town Staff, item "c" provides "Never publicly criticize an individual employee. Elected and appointed officials should never express concerns about the performance of a Town employee in public, to the employee directly, or to the employee's manager. Comments about staff performance should only be made to the Mayor through private correspondence or conversation."

After the meeting adjourned, I approached Councilmember Barker and asked if she had a minute so I could explain the issue I have in preparing the minutes for inclusion in the following Council meeting packet. Councilmember Barker was rude, disrespectful and dismissive in her communication and body language. In summary, she told me she has no sympathy or compassion for me, that she is tired of my excuses and lies and told me that I knew what the job was when I accepted the position. Councilmember Barker cut me off and refused to hear my situation related to her concerns. This is a violation of Section 4, Elected and Appointed Conduct with Town Staff.

Code of Conduct, Section 4 provides "Governance of the Town of Stevensville relies on the cooperative efforts of elected and appointed officials who set policy and the Town staff who implement and administer the Council's policies. Therefore, every effort should be made to be cooperative and show mutual respect for the contributions made by each individual for the good of the community."

Code of Conduct, Section 4, item "a" provides "Treat all staff as professionals. Clear, honest communication that respects the abilities, experience, and dignity of each individual is expected. Poor behavior towards staff will not be tolerated. The employees of the Town of Stevensville are also expected to adhere to this Code."

This conversation took place in front of the other Councilmembers, the Mayor and members of the public. I felt humiliated and robbed of my dignity. Ms. Barker showed no respect for the abilities and experience I bring to the position and clearly communicated a lack of willingness to understand and cooperate as a team. In summary, for the reasons outlined in this letter, Councilmember Barker violated the newly adopted Code of Conduct for Elected and Appointed Officials and Citizen Interactions.

Thank you,

Audree Tribbensee
Town Clerk

Council asked questions about the condition of the ground if the snow melts in time for the event.

The vote was called and all voted "aye". Motion passes 4-0.

11. Executive Report

Mayor Dewey reported on the following:

- A virtual tour of the Town's website was conducted
 - Councilmember Barker commented that access to the site on a mobile device does not provide access to all of the Town's site
 - Councilmember Michalson commented that Chapter 15 is still not updated
- Snow removal and flooding update, sandbags and sands available
- Cameras at Lewis and Clark Park are having issues, they intermittently work and the resolution is not as good as hoped
- Successful in obtaining a grant to help with water rights
- Middle Burnt Fork property appraisal update

12. Town Council Comments

Councilmember Holcomb has been doing a lot of soul searching, a lot of researching and she noticed that their side never gets told. So, she is here to tell her side of the story since we continue to be labeled as bullies. For the record, she indicated that she is speaking for herself and not for the other Councilmembers. For over a year we have been trying to coach our Mayor, but every time she says something or sends him an email, he either doesn't respond or he comes back attacking her. She doesn't send many emails any more because if she does, she is told that she is either attacking, accusing or bullying the Mayor and the employees. This is just for questioning something that she feels was not done legally by our policies. In her opinion, she does not feel we are bullying anyone just because we are asking questions and trying to get an answer on something that was done. Sorry Mayor, you cannot do things without our consent of the Council, so yes, we are your boss. If you go by the actual powers, she does not know what Brian West gave the Mayor, but the ones you follow are the 7-3-203. Never has the Council been treated this way in the years she has sat at this table. Always digging into our emails, which she knows they are public, and then running to the press or news station with them. We may have had disagreements in the past among the employees, Council and Mayor, but it was never this bad. She has been told several times that when people come to pay their bills, the Mayor's son is running all over the place and the Mayor is nowhere to be found. Who is watching his son and are they being paid to babysit? Then we sit her and listen to our clerk chastise the Council, accuse Councilmember Michalson of deleting the Dropbox without proof, which is against our guidelines where it says "and free from the abusive language or unsupported allegations". And because it is a freedom of speech, the Council's spouses have the right to make comments. This was not appropriate for an employee to do during public comments or even at a public meeting. And for the

Mayor to just sit there and to allow it to happen was wrong. Our Town is looking like a soap opera or better yet a circus. We need to stop this childish game and start working for the citizens of this Town. That is why we were voted to this table to do. It seems like we are always having to defend ourselves and she for one feel we need to move forward. She is not saying anything with the fear of being accused, she is done not saying anything with the fear of being accused of bullying, harassing, attacking and accusing.

Councilmember Barker commented on the approval of minutes. On February 14th we denied the meeting minutes for the January 24th meeting. We asked that the Clerk, Audree make corrections to the public comment section and add her full comments to this section as well as the other citizens who commented and where in detail. These minutes should have been included in this meeting for approval. Again, we are behind in approval of minutes. She asked back in December if we were all caught up for approvals and asked Audree if we were caught up, she replied yes. As a clerk this is something that she should not be lagging in behind. In the three years being on Council, the former clerk/court clerk Stacey Bartlett was never behind on any meeting minutes for any of the Council meetings and COW meetings. This has got to change. We shouldn't have to approve 2 or 3 minute meetings back. She would like to see the change and go forward with this, the way it used to be. She would also like to see that the agenda packets include the claims prior to, two days prior to the meeting. She indicated that Council used to see the preliminary claims sheet and then a final claim sheet. These need to be available to the public to see as well, not the day of the meeting; this will help the public understand how the Town's money is being spent. It would also be nice if the Planning and Zoning Board would also notify us of a new business that is either being built or coming to town. Communication goes a long way and that is one area cannot find to relay to the Council. Construction starting in May on Main Street, the only way she found out that this was happening was through the Main Street Association. What type of construction is going to happen? We have never seen any plans on this. We have never been told that this is going to happen. This is going to affect the whole town; communication again. She knew about it, sure the Town knew about it, and why weren't we notified?

13. Board Report

Mayor Dewey asked Councilmember Michalson to report on the Airport Board meeting this week. Councilmember Michalson commented that he was not able to make the meeting.

Councilmember Holcomb indicated that the TIFID/TEDD Board is meeting next week.

Councilmember Holcomb made a motion that we allow the Police Department to purchase 5 tasers using the 5-year payment plan. Seconded by Councilmember Michalson.

Brad Smith, 827 Airport Road, asked about how many times the tasers sent in under warranty. Clarified that you had no failures from the time of purchase till now.

The vote was called and all voted "aye". Motion passes 4-0.

11. Executive Report

Mayor Dewey provided an update the following items:

- Extended an offer of employment for a new police officer. Will send out additional details to Council when it becomes available
- New Physical Therapy building on Main Street
- Highwater issues and road surface problems

12. Town Council Comments

Councilmember Holcomb commented that she guesses she made a weird face when the Mayor read his letter last Wednesday so she finds she needs to defend herself. At the Special Meeting on Wednesday, March 20th when the Mayor read a letter into the record, he stated he emailed the Council daily on the issue of the snow removal. Councilmember Holcomb informed the Town that he only emailed her three times, 2/25, 2/26 and 2/27. That is far from being emailed daily. The one that he sent on 2/27 was at 9:07 pm, and he had already stated that the contractors had already been hired. She would like to see the Mayor start taking accountability for his mistakes and quit blaming it on the past Mayors and Councils when he makes a mistake on something.

Councilmember Barker on the February 14 meeting, we talked about Resolution 435, which was amending the wages and compensations of elected and appointed officials along with the discussion of the reorganization of the Mayor's Town employees. That item was actually tabled and she believes that Jerry commented on the fact that there was a Court Clerk that was going to be hired for that position and at that time we were told that it was undecided due to the fact that we had not been able to go back in and discuss this item. This item was tabled; however, she received an email from the Mayor stating that a new Court Clerk was in the works. Councilmember Barker's question is in regards to her pay scale, because we are taking that away from Audree's job description and questioned if we are going to cut Audree's pay down as well because she is no longer taking that. The other concern that she has is in regards to an email she sent to the Mayor on the fact of some meeting minutes that still had not been addressed. It was over a week before she got a response from the Mayor. Councilmember Barker commented that she is appalled because the it says that the clerk is doing her best she can based on her part-time status as the Town Clerk. Training the new Court Clerk should be completed soon and Audree will have more time to commit to the Council affairs. However, it is important to note that the existing schedule of deadlines of the Council packet is currently challenging to complete the minutes on time. Audree only has Fridays and Mondays to complete the

minutes after Thursday's meeting and she will be committed to the Court on Tuesdays and Wednesdays. This issue is obviously compounded if we have more meetings in between regular meetings. I appreciate your understanding, patience as we can do our best, with this, with available resources going forward, please expect the times presented for approval at the second meeting following the meeting minutes related to.

Councilmember Barker stated that she has a problem with that because we rescheduled our Town Council meetings by moving them to Thursdays so we would have more time for the Clerk to be able to get our packets out and all that information. Councilmember Barker stated that she does believe when went to a training, we talked about also having three meetings a month. There was possibly 4 and we decided to go with three. She would sincerely like to see this changed, five weeks of those meetings from January 24's meetings that we did not approve on February 14, there has been five weeks in there. All we asked was for the comments to be addressed.

13. Board Report

Councilmember Holcomb commented that they finally had TIFID/TEDD Board meeting and hopefully Julie will be putting that together for Council's next meeting.

14. Adjournment

Mayor Dewey adjourned the meeting at approximately 7:40 pm.

APPROVE:

ATTEST:

Brandon Dewey, Mayor

Audree Tribbensee, Town Clerk

Town of Stevensville

Personnel Policy

Passed by Motion at the regular Town Council on 03/12/15

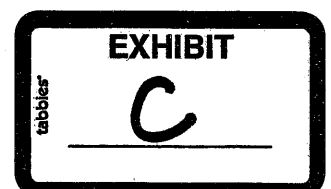
Adopted by Resolution #365

at the regular Town Council meeting on 03/12/15

Amended 09/10/2015 by Resolution No. 365A

Amended 11/12/2015 by Resolution No. 365B

Amended 02/11/2016 by Resolution No. 365C



Town of Stevensville Personnel Policy Manual

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Town of Stevensville Personnel Policy Manual

INTRODUCTION LETTER

PREFACE A

Welcome!

The Town of Stevensville is pleased that you have joined our organization of professionals. The Town is a professional organization providing many valuable services to the residents of Town of Stevensville. Your position has been designed to assist the Town with accomplishing these services. We hope you will find this position rewarding and challenging.

This policy manual is not an employment contract; rather, it is designed to provide you general information regarding employment practices and benefits with the Town of Stevensville. The policy manual cannot cover all employment situations, scenarios, or questions, but it is designed to cover the basic rules. Policies and rules contained within the manual will be added, updated, or deleted as determined by the Town of Stevensville. You are encouraged to submit suggestions or ideas regarding current policies or additional policies to the Mayor and/or your Supervisor.

In situations where the provisions of this personnel policy manual conflict with the Stevensville Police Department Policy and Procedures Manual, the provisions of said manual shall supersede the conflicting provisions in this manual.

As you familiarize yourself with the Town of Stevensville staff and administrative offices, please note the employee bulletin board displays the required federal and state postings. The postings are updated from time to time - be sure to read the board occasionally. If you notice an item that is obsolete or needs updating, please let the Mayor, the Human Resource Supervisor and/or their designee know.

During your first few days working for the Town of Stevensville you will probably have several questions regarding our organization and policies. As you read this manual many of your questions may be answered; however, do not hesitate to ask your Supervisor or the Mayor and/or their designee should you not find an answer to any of your questions.

The Town of Stevensville welcomes you.

Sincerely,

Town of Stevensville

The Hon. Paul Ludington, Mayor

Town of Stevensville Personnel Policy Manual

RECEIPT PAGE

PREFACE B

It is expressly understood that the policy manual for the Town of Stevensville does not constitute a guarantee of employment or promise of any kind. The Town of Stevensville, in its sole discretion, may direct, hire, promote, transfer, assign and retain employees; supervise, discipline, and relieve employees from their duties; determine and change hours of work, shifts, and methods of operation; establish change or abolish its policies, practices, rules and regulations.

It is understood that the policy manual is issued to inform employees regarding the operating policies of the Town of Stevensville. The policy manual may be changed from time to time at the sole discretion of the Town of Stevensville, and is to be used as a guide for the Town of Stevensville employees in the performance of their duties. Violations of the policies set forth in this manual may result in disciplinary action.

By signing this statement, the employee acknowledges the Town of Stevensville policy manual has been received and read and that the employee understands the policies contained herein.

Signed _____

Date _____

Print Name _____

Position _____

Effective Date of Employment _____

Attest:

Supervisor _____

Date _____

Town of Stevensville Personnel Policy Manual

Town of Stevensville History

PREFACE C

From The Montana Genesis (used by permission Mountain Press Publishing):

"Stevensville is a small town, even by Montana standards, but its impact on the history and development of the state is out of proportion to its size. It is the oldest town in the state and may honestly claim other important "firsts". St. Mary's Mission was established in 1841 - the first church and also the first school in the Northwest. With the Mission came agriculture; Stevensville grew the first grain, ground the first flour, sawed the first lumber, had the oldest planted fruit tree (still bearing apples in 1970) and practiced the first irrigation in Montana.

John Owen established his trading post, Fort Owen, in 1855. His water right, filed in 1852, is Montana's oldest, and at Fort Owen in the winter of 1858 the second school in the state was held. Then, as Missoula grew in size and importance, Stevensville declined; and although it was briefly the Ravalli County seat it was superseded by Hamilton. But Stevensville is not and never has been a dying town. It remains and continues to be a vibrant and healthy residential and business friendly community.

Today, most of the residents of Stevensville work for nearby industries. The town's charm has remained unchanged. Stevensville sees itself as a typical small town where neighbors greet each other and take care of each other. We are proud of living in such a strong and vibrant community.

1. Definitions

Conflict of Interest - Conflicts of interest for municipal employees arise when a government employee's personal or financial interest conflicts or appears to conflict with their official responsibility.

Discipline - Correction, punishment or penalty. Discipline is used to bring order to situations where there have been violations of federal, state or local laws and/or violations of Town of Stevensville rules and regulations, employee conduct/behavior/performance standards, or Town of Stevensville's Personnel Policy Manual and applicable policies.

Exempt Employee - Exempt employees are those who, according to the Fair Labor Standards Act (FLSA), are not covered under the provisions pertaining to minimum wage or overtime pay. The FLSA provides for certain exemptions for employees employed in a bona fide executive, administrative or professional capacity. In order to be an exempt employee, certain tests relating to duties, responsibilities and salary must be met (see the Clerk/Personnel Director for details).

Grievance - An injury, injustice or wrong which gives grounds for complaint because it is seen as unjust, discriminatory, or oppressive. Employees file grievances through the Grievance Procedure contained in this manual.

Independent Contractor - Independent Contractors are not considered employees of the Town of Stevensville. Rather, Independent Contractors are those who work on a contract for services basis and must complete work assignments or responsibilities and receive payment (compensation) as identified in the contract. No employee benefits are provided to the Independent Contractor.

Non-exempt Employee - A non-exempt employee is an employee who, according to the (FLSA) is entitled to receive at least minimum wage and receive overtime pay or overtime compensatory time after the employee has worked 40 hours in a work week period. Overtime pay is equivalent to one and one-half times the employee's regular hourly pay for each hour over 40 hours worked.

Professional Services Contractor - A calling, occupation, or business that involves specialized education, knowledge, labor, judgment, and skill, and is predominantly mental or intellectual (as opposed to physical or manual) in nature. The Town of Stevensville uses Professional Services Contractors through an express or implied agreement for which said Contractors could reasonably be expected some compensation would be due.

Regular Full-Time Employee - An employee who normally works 40 hours a week. Regular full-time employees are eligible for all employee benefits.

1. Definitions (continued)

Regular Part-Time Employee - An employee who normally works less than 40 hours a week. Regular part-time employees are eligible for limited benefits on a prorated basis.

Remote Employee - An employee who performs the majority of their work in a location different from where Town of Stevensville general operations occur. They may or may not be covered under the provisions of the FLSA, depending on the status of their employment, and have specific conditions of employment outlined in their respective employment agreements.

Seasonal Employee - An employee designated as seasonal at time of hire, who performs duties interrupted by the seasons, and who may be recalled without the loss of rights or benefits accrued during the preceding season. A seasonal employee may be eligible for limited or prorated benefits.

Short-term Worker - A short-term worker is hired to work for an hourly wage established by the Town of Stevensville for a period not to exceed 90 days within a 12 month period. Short-term workers are not eligible for permanent status and may not be hired without a competitive selection process. The short-term worker is not eligible for any employee benefits including leave, holiday benefits or any insurance benefits.

Sick Leave - Period allowed by an employer to an employee for the employee's sickness either with or without pay but with no loss of seniority or other benefits.

Temporary Employee - An employee who is hired on a temporary basis for a definite period of time not to exceed 12 months and will be terminated at the end of the employment period. This employee may perform temporary duties or regular duties on a temporary basis; however, the employee is not eligible to become a regular employee without completing a competitive selection process. Temporary employees may be eligible for limited or prorated benefits.

Vacation Leave - A recess or leave of absence; a respite or time of respite from active duty or employment; an intermission or rest period during which activity or work is suspended; a period of freedom from duty or work but not the end of employment. Vacations do not result in loss of seniority or other benefits.

1. Definitions (continued)

Volunteer - A volunteer is a person who gives their services to the Town without any express or implied promise of remuneration. All Town of Stevensville volunteers have no guarantee of employment and no property right to a position, volunteer or otherwise with the Town. In their role as Town of Stevensville volunteers, a volunteer is a representative of the Town and therefore is guided by and subject to the Town's personnel policy. The volunteer relationship can be terminated at any time by the Town of Stevensville.

Workplace Violence - Unjust or unwarranted exercise of force, usually with the accompaniment of vehemence, outrage or fury. Violence can include unlawfully exercised force, any exertion of physical force so as to injure, damage or abuse, as well as veiled threats by words and/or acts.

2. Expectations

Welcome to the Town of Stevensville team. The Town of Stevensville wants every employee to know what they can expect from the Town of Stevensville and what the Town of Stevensville expects of each of us. The policy manual is designed to inform employees what the Town of Stevensville expects of them, Town of Stevensville policies and procedures, and the Grievance Procedure should employees have a problem.

Employees are expected to treat, members of the public, co-workers, elected officials, vendors, colleagues, and other business contacts with respect and dignity. Employees are expected to carry out their duties and responsibilities with attention to detail and perform work in accordance with the policies and procedures of the Town of Stevensville in an efficient and productive manner. Employee attention to responsibilities and work products should be constant, consistent, efficient and productive. Personal interference or distractions should be kept to a minimum.

The affairs of the Town of Stevensville are important and are to be considered a confidential trust, as well as a responsibility. Employee attitude, ability, productivity and a sense of responsibility are critical aspects of all job descriptions.

3. Health and Safety

The Town of Stevensville has a safety program and complies with the Montana Safety Culture Act. Relevant safety regulations are addressed by delegating safety responsibilities, establishing procedures, providing training, inspecting workplaces, and providing/requiring the use of safety equipment, etc.

If an employee notices a potential hazard, they should repair the hazard if they are capable and qualified or they should promptly refer the problem to the Supervisor, Mayor and /or their designee. Employees must use safe driving habits and wear seat belts while traveling in Town of Stevensville vehicles. Employees should not operate or use equipment if they are not authorized or do not have the appropriate licensure.

If an employee sustains an injury while on the job, they should notify their Supervisor, the Mayor and /or their designee as soon as possible after the injury occurred and prior to leaving work for the day, if possible. An Accident Report and appropriate Worker's Compensation forms must be completed and the incident must be documented in writing by the injured employee and/or witnesses as soon as possible following the injury. The Town of Stevensville maintains Worker's Compensation coverage pursuant to the provisions of the Montana Worker's Compensation Act.

4. Equal Employment Opportunity (EEO)/Americans with Disabilities Act (ADA)

The Town of Stevensville is an equal opportunity employer. The Town of Stevensville shall comply with all relevant federal and state laws, to include rules and regulations put forth by the Equal Employment Opportunity Commission, (EEOC). The Town of Stevensville shall adhere to all relevant provisions of the Americans with Disabilities Act, (ADA). The Town ensures equal employment opportunity regardless of an individual's race, color, national origin, age, marital status, religion, creed, sex, sexual orientation, political beliefs, genetic information, veteran's status, culture, social origin or condition, or ancestry, physical or mental disability (as defined by the ADA), unless such disability effectively prevents the performance of the essential duties required of the position and which are bona fide occupational qualifications that cannot be accommodated without undue hardship to the Town of Stevensville.

4. Equal Employment Opportunity (EEO)/Americans with Disabilities Act (ADA) (continued)

If an employee believes that they have been subjected to discrimination, including harassment, based upon any of these factors, they should immediately contact their Supervisor and pursue corrective action. If the employee feels they need to resolve the problem by filing a grievance, they should pursue action through the grievance procedure stated within the Town's personnel policy manual.

5. Confidential Information/Personal Gain

Employees of the Town of Stevensville may deal with confidential information. Town employees shall not disclose confidential or privileged information. If an employee is unaware what that is, they shall seek guidance from their Supervisor, the Mayor, and/or their designee. In some circumstances, Town of Stevensville business may be revealed to other Town employees on a need-to-know basis. If an employee has question regarding confidential information and to whom the information should be revealed, they should contact the Mayor, their Supervisor and/or their designee.

Likewise, employees may not use knowledge gained through their employment at the Town of Stevensville to achieve personal gain for themselves or anyone else. Employees cannot participate as a Town employee where they may have private pecuniary (of, relating to or consisting of money) interest, direct or indirect. Employees cannot disclose or use confidential information concerning property or Town of Stevensville affairs to advance personal or private interest with respect to any contract or transaction that is or may be subject of official action of the Town of Stevensville.

6. Lawsuits against the Town of Stevensville

When an employee is approached by a legal process server, they should refer the server to the Mayor and/or their designee or to legal counsel. Should an authority not be available and the employee is required to accept served papers, it is the employee's priority to locate and forward the information to either of the authorities listed without opening or reading the documents.

No employee shall discuss aspects of any legal situation that is subject to or is currently involved in a lawsuit or hearing without first consulting with the Mayor and/or their designee or legal counsel. Likewise, if an employee is approached for a press release or news quote, refer all contacts to the Mayor and/or their designee.

7. Recruitment, Selection and Promotion

It is the policy of the Town of Stevensville that hiring preference may be given to regular full-time or part-time Town employees possessing the necessary qualifications for the vacant position, with first considerations given to those employees working for the Town of Stevensville. The position shall be open and posted in the work place for five business days for internal recruitment. Should the most qualified candidate come from that internal posting, the Town is not obligated to open the position to public announcement. Those employees wishing to apply for a Police Officer vacancy in the Police Department must be an active qualified member of the Montana Law Enforcement Testing Consortium prior to applying.

It is also the policy of the Town of Stevensville that all position vacancy notifications will be sent to all Town employees and the Town Council by electronic media.

8. New Employees

New employees will complete an informal orientation session with the Mayor, the Human Resource Supervisor, and/or their designee. The employee will have the opportunity to complete necessary employment forms required by Federal and State Statutes, as well as payroll and withholding information. The Mayor and/or their designee will explain in general terms the rules and expectations and provide an overview of the pay and benefit packages offered by the Town of Stevensville. The employee will be responsible for reading and following the policies established within this policy manual, to include understanding their employment classification. In addition, new employees will be provided orientation and education specific to the equipment and tasks required of their new position.

All employees will serve a 12-month probationary period; probationary periods may differ for the police and fire departments. The probationary period allows time for the employee to learn the position as well as time for the Supervisor to evaluate an employee's potential and performance. An evaluation will be completed prior to completion of the 12-month period to notify the employee of their status as a regular employee or as a terminated employee.

During the established probationary period, the Town of Stevensville reserves the right to terminate an employee without cause. This type of termination comes without the right to appeal.

9. Employment of Relatives (Nepotism)

No employees will be appointed or hired in a manner inconsistent with the Nepotism laws and definitions as outlined in Title 2, Part 2, Chapter 3, MCA.

10. Authority for Personnel Action

The Town of Stevensville reserves the right to direct, hire, promote, transfer, assign and retain employees. The Town of Stevensville also reserves the right to supervise, discipline, and relieve employees from their duties for any reason determined sufficient by the Town; as well as determine and change hours of work, shifts, and operational methods. The policies, practices, rules, and regulations may be established or changed/abolished with the sole discretion of the Town of Stevensville. The Mayor and/or their designee will execute personnel actions at their discretion. The Mayor may consult with the Supervisor and/or the Human Resource Supervisor and/or the Town's Attorney, when necessary and consistent with all applicable laws, regulations and this policy.

11. Outside Employment

The Town of Stevensville should be the primary job for regular employees. Should an employee seek outside employment, the other position cannot create a conflict of interest between the Town and the other employer.

Employees will notify their Supervisor before accepting outside employment. Once notified, the Supervisor will notify the Mayor and/or their designee of the employee's outside employment. The Mayor and/or their designee will then determine if there is a conflict of interest.

Should other outside employment interfere in any way with the employees' ability to satisfactorily complete Town of Stevensville job duties, the employee may receive disciplinary action.

12. Remote Employment

In some situations, the Town of Stevensville may see fit to hire employees who reside in locations other than the Town of Stevensville. Remote employment brings with it unique responsibilities and advantages that should not be abused or misused. If a remote employee requires a unique work environment that is deemed unreasonable by the employer or creates a situation which the Town of Stevensville determines is not workable, the Town of Stevensville may require that the employee work out of the appropriate Town of Stevensville facility. If the employee could not do this, the Town of Stevensville reserves the right to take other actions as required in accordance with Town of Stevensville policies. Specific conditions of remote employment shall be included in the employee's individual employment agreement.

13. Performance Appraisals and Job Evaluations

Employee performance evaluations are provided at least annually to non-probationary employees. The evaluations report progress and allow correction of any deficiencies, recognize employee strengths and special abilities as well as provide an opportunity to discuss areas that need improvement. Annual appraisals and evaluations should provide an ongoing performance record. This may be used as a supportive document for personnel actions such as promotions or demotions. They also provide employees an opportunity to discuss personal goals, Town of Stevensville goals and means for improvement. Annual evaluations provide an opportune time to formulate or update the employees' job descriptions.

Probationary employees will receive informal feedback throughout their probationary period. The Supervisor or the Mayor and/or their designee will formally evaluate the probationary employee quarterly and prior to the end of the probationary period, at which time the employee will be advised of his or her status as a regular employee or as a terminated employee.

The employee's immediate Supervisor or the Mayor and/or their designee will complete the evaluation using their job description and the Town of Stevensville personnel policy manual as the appraisal basis. The employee is encouraged to complete a preliminary self-appraisal to prepare for the evaluation meeting. The employee and the evaluator shall schedule a conference to discuss the employee's job performance and the job description. The conference will provide the opportunity for the employee to work with their Supervisor or the Mayor and/or their designee to develop the employee's understanding of the position, annual goals, training needs, budget restraints/needs and improvement plan. If the employee, their Supervisor or the Mayor and/or their designee do not agree on an evaluation result, the employee may respond in writing within 10 working days and attach the statement to the performance evaluation form.

13. Performance Appraisals and Job Evaluations (continued)

The employee, their Supervisor or the Mayor and/or their designee will sign and date the evaluation form. If the employee refuses to sign the evaluation form, documentation of their refusal will be noted on their evaluation. The employee's signature will indicate that the employee has reviewed the evaluation with their Supervisor or the Mayor and/or their designee and understands the comments contained within the evaluation.

Annual performance evaluations form the basis for an employee's merit increase.

14. Work While Traveling out of the Office

Town of Stevensville employees may be required to travel. When working away from the office, it is important for employees to maintain contact with their Supervisor or the Town of Stevensville office by frequently calling into the office to provide status reports and to check for messages.

Occasionally it may be necessary to get in touch with traveling employees. It is important for the employee to leave an itinerary with appropriate Town of Stevensville staff, in the event the employee needs to be contacted. The employee should inform their Supervisor of their route and travel plans. Employees will contact the Town office staff when they arrive.

While traveling, Town of Stevensville staff is held to the same provisions of the professionalism policy (section #49), personal appearance and demeanor policy (section #43) as they do during their regular work day.

15. Telephone

Town of Stevensville telephones are to be used for Town of Stevensville business. Personal telephone calls should be kept at a minimum and should not interfere with the employee's work. Unless traveling, long distance charges are to be billed to the employee's personal calling card, collect to the call receiver, or to the employee's home number. Personal charges/bills to the Town of Stevensville shall be the responsibility of the employee. Employees violating this policy may be subject to disciplinary action.

While traveling, employees may make calls to check in with their families/significant others. Such phone calls are to be made on a reasonable basis at the Town of Stevensville expense. The Mayor and/or their designee will notify employees if such phone calls become unreasonable or appear inappropriate at which point disciplinary action may also occur.

Cell Phone Policy

Procedures:

A. Cell Phones and/or Electronic Communication Devices

While at work employees are expected to exercise the same discretion in using personal cell phones and/or electronic communication devices as is expected for the use of company phones. Excessive personal calls during the work day, regardless of the phone used, can interfere with employee productivity and be distracting to others. Employees are encouraged to make any other personal calls on non-work time where possible and to ensure that friends and family members are aware of Town of Stevensville policy.

Town of Stevensville will not be liable for the loss of personal cell phones and/or electronic communication devices brought into the workplace.

B. Personal Use of Company-Provided Cell Phones and/or Electronic Communication Devices

Where job needs demand immediate access to an employee the company may issue a business cell phone and/or electronic communication device to an employee for work-related communications. The phone logs for each phone are subject to public disclosure upon request.

Employees in possession of Town equipment such as cell phones and/or electronic communication devices are expected to protect the equipment from loss, damage or theft. Upon resignation or termination of employment, or at any time upon request, the employee will be asked to produce the cell phones and/or electronic communication devices for return or inspection.

C. Safety Issues regarding Company-Provided Cell Phones and/or Electronic Communication Devices

All employees are expected to obey applicable state or federal laws and/or regulations regarding the use of cell phones and/or electronic communication devices at all times.

Employees who in the performance of their job duties are issued a cell phone and/or electronic communication devices for business use must refrain from using their phone while driving - use of a cell phones and/or electronic communication device while driving is not required by the Town. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees are required to pull off to the side of the road and safely stop the vehicle before placing or accepting a call or use a hands free device. Special care should be taken in situations where there is traffic, inclement weather or the employee is driving in an unfamiliar area.

The Town will provide all employees issued a cell phone with a hands-free communication device.

15. Cell Phone Policy (continued)

C. Safety Issues regarding Company-Provided Cell Phones and/or Electronic Communication Devices (continued)

Employees who are charged with traffic violations resulting from the use of their cell phones and/or electronic communication devices while driving will be solely responsible for all liabilities that result from such actions.

D. Video or Audio Recording Devices

The use of cell phone cameras and/or other electronic communication video or audio recording-capable devices within the Town may constitute an invasion of employees' personal privacy or that of the public and may breach confidentiality of Town of Stevensville's personnel policy. Therefore, the use and content of cell phone cameras or other video-capable recording devices within Town of Stevensville is restricted to specific job related use and remains the sole property of the Town of Stevensville.

Police Department use of audio and/or video recording devices is governed by Montana State law and the department's policies and procedures.

E. Special Responsibilities for Managerial Staff

Department Supervisors are expected to serve as role models for proper compliance with the provisions above and are encouraged to regularly remind employees of their responsibilities in complying with this policy.

F. Appropriate Utilization

Any Town provided cell phones and/or electronic communication devices with internet browsing capabilities should only be utilized for Town business. Any utilization of the device to transmit, or browse the internet for sexual, discriminatory, or harassing images or materials are expressly prohibited. When using a Town supplied communication device there is no expectation of privacy.

An employee found in violation of this policy may be subject to discipline up to and including termination.

16. Computer Usage

Use of the Town of Stevensville's electronic communications equipment, systems and/or tools is a privilege and is potentially subject to public disclosure under the public right to know. Electronic communications equipment should be used for activities that fall within the course and scope of the employee's job duties. Personal computer use that is deemed excessive or inappropriate by the Town of Stevensville or computer use that is illegal may result disciplinary action. New employees will be given a period of instruction on the Town of Stevensville's computer equipment as part of their new employee orientation.

Email

Employees are responsible for the content and dissemination of their messages. This responsibility includes ensuring that messages are accurate, courteous and that they do not violate another's right to privacy or confidentiality. If an employee has a question pertaining to the content of an email, they should consult with their Supervisor.

Security

The Town of Stevensville owns the contents of all files stored on its systems; all messages transmitted over its systems, and reserve the right to access them. E-mails may be accessed and monitored in the normal course of business by system administrators, Supervisors and support staff. The Town of Stevensville expressly reserves the right to monitor use of the Internet by employees. When using a Town supplied communication device there is no expectation of privacy.

17. Personnel Files

The Town of Stevensville maintains records on every employee related to their employment with the Town. The employee's personnel file will contain information such as employment application/resume or cover letter, performance evaluations, training records, commendations and awards, disciplinary records, and resignation/termination records. Such information will be obtained from the employee or from others with the employee's authorization. Any information obtained for EEOC compliance (Form EEO-4) and/or any medical information will be kept in separate confidential files and accessed only on a need-to-know basis as authorized by the Mayor and/or their designee so long as it does not violate any laws, regulations or policies set forth in this manual.

Personnel files are confidential and only accessible to others on a need-to-know basis for personnel action. Upon request to the Mayor /or their designee or the Human Resource Supervisor and with the Mayor /or their designee or the Human Resource Supervisor present, employees may inspect and make copies of their personnel records. Employees should contact the Mayor and/or their designee or the Human Resource Supervisor to establish a convenient review time.

18. Alcohol-Free & Drug-Free Workplace

In compliance with the Drug-Free Workplace Act of 1988, (41 USC Sec. 701, et seq.), the Town of Stevensville is committed to providing an alcohol-free and drug-free workplace. The Town prohibits the unlawful manufacture, distribution, sale, possession or use of a controlled substance or alcohol in the workplace or while conducting business. All employees must comply with this policy and notify the Mayor and /or their designee in writing of any drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction. The Mayor and /or their designee is responsible for notifying the appropriate federal granting agency of the conviction when the employee involved is working on a federal grant or contract, within ten (10) days of learning of the conviction. Employees who violate this policy may be subject to disciplinary action.

Town employees holding a State of Montana Commercial Driver's License (CDL) are subject to mandatory and random drug tests.

19. Sexual Harassment

It is the policy of the Town of Stevensville that harassment will not be tolerated. Employees are expected to act in a professional, cooperative and respectful manner to all persons.

According to the EEOC, sexual harassment may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical advances of a sexual nature. The Town of Stevensville strictly enforces State and Federal anti-discrimination laws that prohibit sexual harassment. The following actions are strictly prohibited:

- Occasions when such conduct, either explicitly or implicitly, is a term or condition of employment
- Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individuals
- Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment includes Verbal Harassment (sexually explicit jokes, comments, innuendoes, etc.), Physical Harassment (unwelcome patting, hugging, pinching, grabbing, assault, etc.), Power Plays (using position of authority to coerce sexual favors or sexually harassing conduct), or Non-verbal/Mental Harassment (sexually explicit posters, unwelcome repeated requests for dates, gesturing, etc.).

Any employee who perceives a conversation or event as harassment, whether the employee is involved or merely observed, should explain to the offender in a calm but firm manner that the action is perceived as inappropriate and that the employee wishes the behavior to stop. Should the harassment continue, the employee should report the activity to their Supervisor, the Mayor /or their designee, or in the event these individuals are involved, to the Human Resource Supervisor, or an independent third party. The harassment allegation will be promptly investigated with due regard for confidentiality by the Mayor /or their designee, the Human Resource Supervisor, or an independent third party. The results of the investigation and the nature of the disciplinary action will be communicated to the complainant and the offender.

Either the offended employee or the offender may appeal the decision through the normal grievance procedures if either submits a written statement concluding the findings were incorrect or the disciplinary action inappropriate. The Town of Stevensville will not tolerate retaliation against an employee who makes a good faith report of alleged sexual harassment or participates in a sexual harassment investigation. A follow-up review will be completed within twelve months after harassment allegations have been confirmed to ensure the sexual harassment has discontinued and all parties involved are not subjected to retaliatory behaviors.

20. Resignation/Termination

Employees who are voluntarily resigning from the Town of Stevensville are requested to give a written notice with a minimum of two weeks. Employees will be provided their final paycheck within 15 days or the next scheduled pay period, whichever is less.

Depending on the circumstances surrounding the resignation, employees who resign from the Town of Stevensville may be eligible for re-employment. Former employees will be required to complete an application/resume, as determined, and proceed through the regular hiring procedure as other applicants. A former employee who is re-hired by the Town of Stevensville will be considered a new employee and required to complete the 12-month probationary period. Date of service, for seniority purposes, will be the date of rehire. Subsequent employment and participation in the retirement system will be made in accordance with the rules and regulations of the retirement plan, as well as all applicable federal and state laws.

The Mayor and /or their designee have authority to determine if The Town of Stevensville workload, funding or other business decisions are such that terminations (via layoff or reductions-in-force [RIF]) are required. Whenever possible, employees will be provided at least two (2) weeks advance notification before the layoff or RIF. Regular employees will not be terminated if temporary or short-term workers are employed in the same work classification. Our insurance company, Montana Municipal Interlocal Authority (MMIA) will work in conjunction with the Human Resource Supervisor to ensure relevant benefits information is forwarded to the employee at the last known address. Employees must keep the Town of Stevensville informed of the address and telephone number where they can be contacted in the event of a recall. If the Town is unable to contact an employee within 14 days of the recall, the employee will be eliminated from the recall list and the Town of Stevensville will have no further obligation to recall that employee. The Town of Stevensville will have no obligation to recall the employee if they have been on a continual layoff for a period of one (1) year.

Employees terminated by the Town of Stevensville will have a letter issued stating the reason and the effective date of the termination. Probationary employees may be discharged for any reason that the Town of Stevensville deems appropriate within the six-month probationary period. The terminated employee's final paycheck will be issued within 15 days or the next scheduled pay period, whichever is less. The Town of Stevensville will follow the procedure outlined in the Employee Discipline section to terminate a non-probationary employee. An employee terminated for cause does not retain his/her job or benefits pending any grievance appeal, but if he/she wins the grievance, such salary and benefits may be restored retroactively.

21. Workplace Violence

The Town of Stevensville is committed to providing our staff a friendly, courteous and impartial work environment. The Town of Stevensville acknowledges that human relationships are subject to conflict and that some employees may be exposed to violence by the nature of their jobs. The Town of Stevensville is committed to maintaining a safe, healthful and efficient work environment in which acts of violence by employees or citizens will not be tolerated.

The Town of Stevensville will strive to provide a safe and secure work environment. Employees should avoid or minimize potentially violent situations to protect themselves from harm. If an employee anticipates a particularly confrontational situation, they should notify their Supervisor, the Mayor and /or their designee so that additional security can be arranged. When a situation begins amicably but turns hostile, employees should try to de-escalate the situation. If de-escalation tactics don't work, they should withdraw from the situation. Force should not be used unless it is absolutely necessary for self-defense.

Threats or acts of violence experienced or witnessed must be reported to the employee's Supervisor or the Mayor and /or their designee as soon as possible. The Town of Stevensville will promptly investigate any complaint received that pertains to workplace violence. The Town of Stevensville will take appropriate, prompt actions against any employee who engages in any threatening or intimidating behavior or acts of violence or who uses any obscene, abusive, or threatening language or gestures.

If an Employee is involved in a domestic violence situation outside of the workplace and there is fear that the domestic violence could result in workplace violence, employees should notify their Supervisor or the Mayor and /or their designee immediately so appropriate security measures can be arranged.

This policy prohibits employees from bringing firearms or other weapons (including pepper spray, stun guns, batons, etc.) onto land, buildings (owned or leased) by the Town of Stevensville. Employees are also prohibited from carrying firearms or other weapons in Town of Stevensville vehicles or in personal vehicles if conducting Town of Stevensville business. Police Department personnel are exempt from this policy.

Any exception to this policy must be requested in writing to the Mayor for approval.

If a Town of Stevensville employee has violated this policy, such action may warrant disciplinary action, up to and including termination. If necessary or appropriate, the Town of Stevensville will notify the necessary law enforcement personnel and prosecute violators of Town code.

22. Time Sheets and Payday

Time sheets for the pay period are to be completed by all employees and submitted to their Supervisors when they are requested or when payroll needs to be processed. In the event an employee is unavailable to complete and submit his or her time sheet, he or she may complete the time sheet in advance or call the Supervisor and relay the information. Time sheets must include the employee's name and hours worked on a daily basis, holiday time, sick leave used, vacation leave used, leave without pay, etc. The employee must sign the time sheets attesting that all time worked and leave used is reported for the period. The employee's Supervisor and/or the Mayor /or their designee will review and sign the time sheets.

Town's employees are paid every two weeks. The employee's Supervisor or the Mayor and /or their designee will distribute the paychecks to employees, unless electronic transmission of payroll is utilized. If the employee desires to release their pay to another authorized person, they shall notify the Human Resource Supervisor or the Mayor and /or their designee in writing.

23. Working Hours/Work Week

Normal working hours are from 8:00 AM to 5:00 PM Monday through Friday. Most employees are expected to adhere to this schedule, however alternative schedules may be considered by the Supervisor or the Mayor and /or their designee. The workweek will begin on Saturday at 12:00 AM and end on Friday at 11:59 PM.

Non-exempt employees working over 40 hours per week will be paid overtime at 1 1/2 times their hourly wage rate. If the Supervisor, the Mayor and /or their designee and the employee agree, the non-exempt employee can elect to accumulate compensatory time (comp time) for use as time-off at a future date at a rate of 1 1/2 times the number of hours worked over the 40 hour work week. Non-exempt employees must receive authorization to work overtime or comp time hours either orally for short term assignment (less than eight hours) or in writing for longer term assignments (greater than eight hours), from their Supervisor, prior to working the additional hours. Any accrued and unused comp time hours will be paid to non-exempt employees upon termination of the employment relationship.

Exempt employees do not receive compensatory time for hours worked over 40 hours per week.

23. Working Hours/Work Week (continued)

Lunch periods are one hour. If an employee needs to take a longer lunch hour, it should not interfere with the employee's performance of their duties. Lunch periods are to be taken at a time approved by the Supervisors and are staggered among the employees to ensure effective service to the residents of the Town of Stevensville.

Employees may take one 15-minute break when they are scheduled to work four consecutive hours. Break periods are paid, but may not exceed 15 minutes per four consecutive hour period. Additional breaks for exempt employees should not interfere with the employee's performance of their duties.

24. Non-exempt Comp Time

On April 17, 1989, the Attorney General, of the State of Montana issued an opinion that state and local government employees who are covered by the Federal Fair Labor Standards Act (FLSA), are not subject to the provisions of the Montana Minimum Wage and Hour Act. This opinion allows agencies flexibility in administering overtime provisions for non-exempt employees.

Non-exempt Comp Time Policy

The Town of Stevensville complies with the Fair Labor Standards Act (FLSA), its regulations (29 CFR 553), State rules (Montana Operations Manual, Volume III, Policy 3-0211), and this policy in the administration of overtime compensation and non-exempt compensatory time.

Compensatory time for employees exempt from the FLSA will be administered consistent with the provisions in the State's Exempt Compensatory Time Policy (MOM, Vol. III, Policy 3-0210).

DEFINITIONS

"Non-exempt compensatory time" means time accrued at a rate of one and one-half hour's for each hour of employment for which overtime compensation is required pursuant to the FLSA, its regulations, and this policy. Accrued time may be taken as approved time off at a later date.

"Non-exempt or covered employee" means an employee subject to the overtime provisions of the FLSA and its regulations. This does not apply to certain employees exempt from the overtime provisions of the FLSA in a position designated as executive, administrative, professional or outside salesmen, as these terms are defined in 29 CFR 541.

24. Non-exempt Comp Time (continued)

"*Overtime*" means time worked by a non-exempt employee in excess of 40 hours in a workweek. The rate of overtime pay will be one and one-half times the employee's regular hourly wage, with the exception of on call reimbursement, which will be reimbursed at the regular rate of pay unless the employee is called in to work.

"*Workweek*" means a regular recurring period of 168 hours in the form of seven consecutive 24-hour periods. The workweek need not be the same as the calendar week. The workweek may begin on any day of the week and at any hour of the day. Once established, a workweek may not be changed unless the change is intended to be permanent.

Non-exempt Comp Time Procedure

The Town of Stevensville may grant non-exempt employees who work overtime either overtime pay or non-exempt compensatory time off.

Covered employees will be paid cash for overtime hours worked unless they notify the Mayor and / or designee of their choosing. A new employee will make their request at the time of hire.

Employees electing to receive non-exempt compensatory time may change their selection by notifying the Mayor and / or designee of their choosing.

The Town of Stevensville may, at any time, pay cash for all or any portion of a covered employee's accrued non-exempt compensatory time balance.

All hours worked in a payroll period, with the exception of on-call hours, are counted as hours worked for the purpose of calculating a workweek for overtime pay requirements. A Supervisor may adjust a covered employee's work schedule in a workweek or require the employee to take time off without pay so that the employee does not become eligible for the payment of overtime or the accrual of non-exempt compensatory time.

Overtime and non-exempt compensatory time is earned and recorded on the timesheet in no smaller than one-quarter hour increments.

Non-exempt compensatory time must be taken off in no less than one-half hour increments. The employee's immediate Supervisor must approve requests for use of compensatory time off in advance.

24. Non-exempt Comp Time (continued)

A non-exempt employee may accrue a maximum balance of 60 hours of non-exempt compensatory time. When the non-exempt compensatory time balance exceeds 60 hours, the covered employee will be paid cash overtime compensation.

Any non-exempt employee with an accrued compensatory balance at the end of the fiscal year will have all hours paid out on the final paycheck before the close of the fiscal year.

If a non-exempt employee changes from non-exempt to exempt status through a personnel action such as a promotion, or the employee terminates employment with the Town, the Town will pay out any unused non-exempt compensatory time.

25. Travel and Expense Reports/Reimbursement

All employees shall have their travel approved by the Supervisor, Mayor and /or their designee. All employees traveling on Town of Stevensville business are required to provide verification of driver's license with appropriate endorsements for the types of equipment operated.

Employees on Town of Stevensville business may be compensated for travel expenses, meals, mileage and/or incidental expenses at a rate established by the Town of Stevensville in concert with all Federal and State statutes. Receipts must be included for lodging, travel, meals, and appropriate ancillaries. If meals are included in tuition, registration fees, or hotel charges, or if only a fraction of the day is authorized for travel, the per diem or expense allowance shall be reduced accordingly.

If a Town of Stevensville vehicle is not available, employees may use their own vehicle and receive a mileage reimbursement. When employees use their own vehicles for Town of Stevensville business, they are required to provide proof of liability insurance coverage.

Employees may request an expense advance as approved by the Supervisor to offset undue financial hardship on employees traveling for Town of Stevensville business. The advance must be justified with reasonable requests for meals, lodging, gasoline cost, public transportation, etc. Pre-approved registration fees and lodging expenses can be paid directly to the training agency or hotel in advance or reimbursed to the employee upon return. The employee must provide an itemized expense report with attached receipts documenting the expenditures of the trip. If the travel advance exceeds the receipts documenting expenditures, the employee must reimburse the Town of Stevensville the difference. Any legitimate balance owed to the employee for receipts exceeding the travel advance will be promptly reimbursed by the Town of Stevensville.

25. Travel and Expense Reports/Reimbursement (continued)

Willful misrepresentation of expenses or receipts is unlawful and will result in disciplinary action.

The Town of Stevensville will follow current State of Montana per diem rates for both in-state and out-of-state travel. Prior to travel, employees shall see the Treasurer for current per diem rates and payout procedures. - Amended per Resolution No. 365A, 09-10-2015

Use of Town of Stevensville Vehicles

Employees may be able to use a Town of Stevensville vehicle when traveling. Unsafe vehicle conditions or conditions in need of repair must be reported to a Supervisor and/or the Mayor and /or their designee immediately, (See the Use of Town of Stevensville Vehicle/Vehicle Accident section below).

Town of Stevensville shall designate the positions that require the use of Town of Stevensville vehicles on a take-home basis. All Town of Stevensville vehicles are to be primarily used for business-related purposes and, if possible, are to be available and shared among all employees when needed for business-related travel. On an annual basis, employees that are issued a Town of Stevensville vehicle on a take-home basis will be required to report private use mileage. Employees who believe their position warrants the designation of a Town vehicle should discuss such during the annual evaluation period when other budgetary items are reviewed.

Employees using a Town of Stevensville vehicle must observe and obey traffic regulations and exhibit extreme care of the vehicle. Employees and other authorized passengers are required to wear seat belts at all times. Vehicles shall be parked in an authorized, or unrestricted, space. When the vehicle is left unattended, the employee must secure the vehicle by rolling-up all windows and locking all of the doors. Employees are expected to clean the company car upon return from their trips by removing garbage and washing the vehicle, as required. Employees are prohibited from smoking in the Town of Stevensville vehicles.

Employees choosing to use their personal vehicle while on Town business understands that, should they be involved in an accident, their personal auto insurance would be the primary insurer making the Town's insurer the secondary insurer.

25. Travel and Expense Reports/Reimbursement (continued)

Vehicle Accidents

When an employee is involved in a motor vehicle accident with a Town of Stevensville vehicle, the employee must notify the Supervisor, Mayor and /or their designee immediately. The employee should detail, in writing, the accident and situations leading up to the accident. Law enforcement should be contacted to complete an investigation of the accident. Employees must cooperate with, and are permitted to discuss the incident with the Mayor and /or their designee, insurance adjusters and law enforcement.

Upon returning to the Town of Stevensville office, an account of the accident should be provided in writing to the Supervisor or Mayor /or their designee. The employee may also be asked to assist with completing the necessary forms for insurance claims. The Supervisor or Mayor and /or their designee shall conduct an investigation of the facts and situations of the accident to determine if disciplinary measures are warranted. Accidents where the Town of Stevensville employee was driving or operating machinery under the influence of alcohol or illegal drugs (which is absolutely prohibited) may result in discipline.

Compensating non-exempt employees for travel time

Time spent traveling throughout the State of Montana is always a time consuming endeavor. It is important for all Town of Stevensville non-exempt employees to understand how they are compensated for travel time. Different situations may determine if the travel time is work time or not. The following variations are described in the administrative rules of Montana (24.16.1010, ARM) promulgated by the Montana Department of Labor:

Home to work - (ordinary situation): Normal travel from home to work is not work time. This is true whether an employee works at a fixed location or at different job sites.

Home to work - (emergency situation): Travel to the job and back home by an employee who receives an emergency call outside of their regular hours to report back to their regular place of business to do a job is classified as work time.

Home to Work in another city - (special one-day assignment): all time spent traveling to another city/town would be considered work time except for the travel from home to public transportation, such as a bus depot. This would be the normal home to work travel. The usual mealtime would be non-compensated also.

Travel all in the day's work: Time spent by an employee in travel as part of their principle activity, such as travel from job site to job site during the workday, must be counted as hours worked. If the employee goes home instead of returning to the employer's premises from the last job site, this travel is home-to-work travel and is not time worked. If an employee is required to report at a meeting place to receive instructions or to perform other work there, or to pick up and carry tools, the travel time from the designated place to the work place must be counted as hours worked.

25. Travel and Expense Reports/Reimbursement (continued)

Travel Away from Home Community: Travel that keeps an employee away from home overnight is travel away from home and is clearly work time when it cuts across the employee's workday (employee is simply substituting travel for other duties). This time is not only hours worked on regular working days during normal working hours, but also during the corresponding hours on nonworking days. For example, if an employee normally works 8AM to 5PM Monday through Friday, the travel time during these hours on Saturday and Sunday is also counted as work time. If the employee requests to drive their car in place of public transportation that has been offered, this travel time is counted as hours worked only to the extent of time it would have taken to travel if the employee had been using public transportation.

Work Performed While Traveling: Any work which an employee is required to perform while traveling must be counted as work time. Sleep in adequately furnished facilities would not be counted as hours worked.

26. Holidays

Town of Stevensville will observe the same holidays as recognized by the State of Montana.

- January 1 - New Year's Day
- Third Monday in January - Martin Luther King Day
- Third Monday in February - President's Day
- Last Monday in May - Memorial Day
- July 4 - Independence Day
- First Monday in September - Labor Day
- Second Monday in October - Columbus Day
- First Tuesday in November during Congressional/Gubernatorial Election Years - State General Election Day
- November 11 - Veterans' Day
- Fourth Thursday in November - Thanksgiving Day
- Fourth Friday in November - employee option to take as vacation day with approval
- December 25 - Christmas Day

If a holiday falls on a Saturday, the Friday preceding is observed as a holiday. If a holiday falls on a Sunday, the following Monday is observed as the holiday.

If one or more regular holidays fall in the period of an employee's annual vacation leave, the vacation record will be credited for the holiday. If a holiday falls on an employee's regularly scheduled day off, the employee will be granted another day off as agreed upon by the employee and their Supervisor, the Mayor and /or their designee.

26. Holidays (continued)

If a Town employee is required to work on a legal holiday, and if no substitute day of leave is scheduled for such employee as compensatory time off in lieu of such holiday, that employee shall be entitled to one and one-half times their regular salary for the hours worked on such holiday, plus his salary for an eight hour day.

Regular part-time and seasonal employees shall receive a pro rata share of compensation at their regular straight time hourly rate.

27. Annual Leave/Vacation

Each regular full-time, regular part-time employee and seasonal employee shall earn annual leave from the first day of employment, but will not be eligible to take their accrued leave until the employee has completed twelve months of continuous employment with the Town.

Regular full-time employees accrue vacation leave as follows:

Time Worked	Work Day Credit Per Year	Hours per month based on an 8 hour day
1 day to 10 years	15	10
11 years to 15 years	18	12
16 years to 20 years	21	14
21 years and over	24	16

Regular part-time employees are entitled to prorate their vacation leave if they have worked the qualifying six-month period. Vacation benefits are based upon the hours worked during the pay period.

Temporary and seasonal employees earn annual leave, however they must be employed for six qualifying months before they may use the annual leave. In order to qualify, seasonal employees shall immediately report back for work when operations resume in order to avoid a break in service.

The maximum annual leave amount accumulated is twice the number of days earned annually at the end of any calendar year. Vacation leave exceeding the maximum amount must be used within 90 calendar days of the next calendar year in which the excess was accrued or it will be forfeited.

27. Annual Leave/Vacation (continued)

Requests for annual leave of five days or more must be submitted two weeks in advance and pre-approved by the employee's Supervisor or the Mayor and /or their designee. If you are a department Supervisor requesting annual leave of five days or more, your request must be submitted two weeks in advance and pre-approved by the Mayor and/or their designee. If approved by the department Supervisor, they will notify the Mayor and / or their designee of the dates of the employee's leave.

Leave requests of four days or less are made with the department Supervisor a minimum of two days in advance of the requested time off. If the employee is a department Supervisor, your leave request is made directly to the Mayor and / or their designee. If approved, the department Supervisor will notify the Mayor and / or their designee of the dates of the employee's leave.

~~The annual leave will be approved after considering the best interest of the Town of Stevensville, the employee's unit, and the employee's request. Employees who need to use annual leave due to extenuating circumstances before they finish the qualifying period may ask their Supervisor, the Mayor and /or their designee to grant paid annual leave with the understanding that their leave balance will be affected if their employment is terminated before completing the qualifying period. Should two employees request the same period of vacation, their Supervisor or the Mayor /or their designee has discretion regarding the approval of the leave requests.~~

An employee, who has passed the six-month qualifying period and has separated from the service of the Town of Stevensville for any reason, shall be entitled upon termination to cash compensation pay-out for accrued and unused vacation leave. The payout will be based upon the employee's salary at time of termination.

Employees who are called back to work while they are on vacation will be paid at their regular rate until they have worked 40 hours in a workweek at which time they will be paid at their overtime rate.

Prior Service

Employees of the Town of Stevensville who worked for another agency within the State of Montana can, with proper certification, have their years of service applied to their Town of Stevensville accrued leave time. Agency is defined as any State, County, City, or Town. Special rules apply to Montana educators; see the Human Resource Supervisor for clarification.

28. Sick Leave

All regular full-time employees earn sick leave from the first day of employment; however, they are not entitled to use paid sick leave until they have been employed continuously for the qualifying period of 90 days. Employees who are sick before they finish the qualifying period may ask their Supervisor to grant paid sick leave with the understanding that their leave balance will be affected if their employment is terminated before completing the qualifying period. For calculating sick leave, 2,080 hours (52 weeks X 40 hours) equals one year. Sick leave must be credited at the end of each pay period. Sick leave is earned at a rate of twelve working days for each year of service without restriction as to the number of working days that may be accumulated. Employees may not accrue sick leave while in a leave-without-pay status.

Regular part-time employees earn a prorated amount of sick leave if they have worked the qualifying period. Full-time temporary and seasonal employees are entitled to sick leave benefits provided they work the qualifying period.

Employees may use sick leave for personal illness or physical incapacity, sickness of immediate family member, or death in the immediate family of employee (refer to bereavement leave). Immediate family is defined as the employee's spouse, partner, or any member of the employee's household, or any parent, child, grand parent or grandchild.

Sick leave benefits shall apply to bona fide cases of sickness, accidents, doctor or dental appointments, maternity/paternity leave, and requests for the employees' presence due to immediate relatives' illness or emergency. Employees using sick leave that exceeds five consecutive workdays shall furnish a diagnosis of sickness from a qualified doctor upon request of their Supervisor or the Mayor /or their designee.

An employee who has passed the 90-day qualifying period and who separates employment from the Town of Stevensville shall be entitled upon termination to cash compensation pay-out for the unused leave equal to one-fourth the accumulated sick leave. The payout will be based upon the employee's salary at the time of termination.

Employees will be permitted to transfer sick leave from one employee to another. The receiving employee must have exhausted all accrued sick leave and vacation leave. The contributing employee must make the transfer request in writing and must maintain at least 40 hours of sick leave. The transferred sick leave will not change the receiving employee's employment status. The transferred sick leave is considered forfeited by the contributing employee and additional sick leave must be re-accrued. Employees shall not be coerced, intimidated or adversely persuaded to transfer their accrued sick leave to the receiving employee. Doing so may result in disciplinary action.

28. Sick Leave (continued)

At the Town of Stevensville's request and expense, an employee may be subject to an examination by a physician following a sick leave or other absence occasioned by illness or injury to ensure the employee can complete the necessary functions of the position. Abuse of sick leave may result in disciplinary action.

29. Pregnancy Leave

The Town of Stevensville will conform to the Pregnancy Discrimination Act (Civil Rights Act of 1964 as amended, Title VII, Section 701 et seq.) as well as all relevant pregnancy leave provisions in federal and state statutes. An employee will not be terminated because of their pregnancy. Employees who are disabled as a result of pregnancy will not be denied any compensation that they are entitled to as a result of the accumulation of leave benefits accrued; however, the Town of Stevensville reserves the right to require medical verification that the employee is not able to perform employment duties.

Employees should notify their Supervisor or the Mayor and /or their designee of a desire to take Maternity Leave upon confirmation of pregnancy. As soon as reasonable, the employee should report the expected due date, the estimated leave of absence, and anticipated complications that may affect current leave requests.

Upon signifying intent to return to work at the end of the leave of absence, the employee will be reinstated to the original job and/or equivalent position with equivalent pay and accumulated seniority, retirement, fringe benefits, and other benefits.

30. Family and Medical Leave Act (FMLA)

It is the policy of the Town of Stevensville to offer limited FMLA benefits to its employees as described below.

An eligible employee can take up to 12 weeks of leave per year if he/she has worked for at least 1,250 hours within the previous 12 months and have been employed for 12 months.

Family or Medical Leave can be taken for the following reasons:

- The birth or placement of a child for adoption or foster care,
- The serious health condition of a spouse, child or parent, or
- An employee's own serious health condition

Employees are required by law to provide at least a 30-day notification of intent to use Family or Medical Leave whenever possible. Employees will be required to use their paid vacation, personal or sick leave for any part of the 12-week period. The remaining portion of the leave will be unpaid leave.

Employees will only be provided a total of 12 weeks in a rolling 12-month period looking back from the first day of the leave request. (For example: If an employee took 12 weeks leave beginning July 1, 2012 and requested to take 12 weeks leave beginning May 1, 2013, the request would be denied because the employee used 12 weeks looking back from May 1, 2012 through April 30, 2013.)

Upon request of your Supervisor and/or the Mayor/Human Resource Supervisor, employees must provide certification explaining the serious health condition or the family member's condition. It should detail:

- The date on which the condition began
- The probable duration of the condition
- Appropriate medical facts regarding the condition
- A statement that the employee is needed to care for a spouse, parent or child
- A statement that the employee's own health condition makes it impossible for him or her to work

These reports are confidential and will remain in the employee's personnel file.

If the Town of Stevensville is not satisfied with the certification, it may require a second opinion at our expense. In the event of conflicting opinions, a third provider will be retained, also at our expense, to render a binding decision.

30. Family and Medical Leave Act (FMLA) (continued)

Under certain conditions, employees who are designated as “key” may be denied job restoration rights. These employees must be in the highest paid 10% of the work force and their absence must mean a substantial economic loss to the organization. If a person designated as “key” still takes family leave, the Town of Stevensville will pay the health care premiums, but no guarantees are made about returning them to the positions they left.

An employee who fails to return to work on his or her regularly scheduled work day after the pre-approved leave without pay period will be considered to have voluntarily resigned unless the leave period is extended, in advance, by the Mayor. Providing false or misleading information or reasons to justify a FMLA absence may result in discipline, up to and including termination. FMLA provisions indicate that at the Town of Stevensville discretion, health care premiums may be recovered from employees who do not return to work.

31. Public Office Leave

Per MCA 39-2-104: Mandatory leave of absence for employees holding public office.

(1) Employers of employees elected or appointed to a public office in the city, county, or state shall grant the employees leaves of absence, not to exceed 180 days per year, while they are performing public service. Employees of an employer who employs 10 or more persons must, upon complying with the requirements of subsection

(2), be restored to their positions, with the same seniority, status, compensation, hours, locality, and benefits as existed immediately prior to their leaves of absence for public service under this section.

(3) An employee granted a leave of absence shall make arrangements to return to work within 10 days following the completion of the service for which the leave was granted unless the employee is unable to do so because of illness or disabling injury certified to by a licensed physician.

(4) Unemployment benefits paid to a person by application of this section may not be charged against an employer under the unemployment insurance law.

History: En. Sec. 1, Ch. 185, L. 2009

32. Absence without Authorization

Absence is the failure to report for work and/or to remain at work as scheduled. It includes late arrivals and early departures as well as absence for an entire day. Regular and punctual attendance is essential for efficient operations. If an employee does not know in advance that they will be absent or unavoidably late, they should telephone the office to ensure their Supervisor, Mayor and /or their designee and the staff is notified. Failure to request advance approval or to report an absence as described above may result in disciplinary action. An employee who fails to call in for three successive days to report such absences may be considered to have voluntarily terminated employment with the Town of Stevensville.

Employees with above average absenteeism may be required to document the reasons, including providing a doctor's certificate or other evidence and verification. Upon returning to work from an unexcused absence, the employee must report to his or her Supervisor and disclose the reason for the absence. If the reason is not acceptable, it may result in disciplinary action.

33. Leave-without-Pay

Leave-without-pay may be granted for any cause as determined by the Mayor and /or their designee so long as it doesn't violate any laws, regulations or policies set forth in this manual. Employees may be granted leave without pay for a specified time generally not to exceed one hundred eighty (180) calendar days during their employment period.

Whenever possible, the employee should provide their Supervisor, the Mayor and /or their designee with at least 30 days' notice so workloads/tasks can be covered. To request leave without pay, employees must provide their Supervisor, the Mayor and /or their designee the beginning and ending dates of the leave and the reason for the requested leave.

Vacation and sick leave cease to accrue during leave-without-pay. Employees will not be allowed to use sick or annual leave and will not receive holiday pay while on leave-without-pay status. Health insurance will not be paid by the Town of Stevensville during a period of leave without pay. However, the employee may choose to continue insurance coverage during the leave by paying the Town of Stevensville the premiums on a monthly basis. If the employee fails to continue the insurance coverage, the insurance may be canceled. Should it be canceled, the employee may be subject to policy restrictions, upon returning to work.

Depending upon the circumstances, employees still in their probationary period may be allowed to take a leave without pay. However, if leave is granted, their probationary period will be extended by the amount of time taken during the leave.

33. Leave-without-Pay (continued)

An employee who fails to return to work on his or her regularly scheduled work day after the pre-approved leave-without-pay period will be considered to have voluntarily resigned unless the leave period is extended, in advance, by their Supervisor and/or the Mayor and /or their designee. Providing false or misleading information or reasons to justify leave-without-pay may result in disciplinary action.

34. Attendance

Employees are expected to report to work as scheduled by their Supervisor or the Mayor /or their designee. If the employee is late to the point where it will impact their job duties, they must contact their Supervisor or Mayor /or their designee with an explanation. If the tardiness/absence is deemed unreasonable, it may result in disciplinary action. Advance notice should be given if possible to allow for a replacement to be scheduled, if necessary. If the employee's Supervisor or the Mayor /or their designee are unavailable, a message should be left with the senior staff member explaining the situation. Failure to notify the office of an absence or tardiness may result in disciplinary action.

35. Funeral / Bereavement Leave

In case of a death in the immediate family, an employee will be allowed three days paid for bereavement purposes. Immediate family is a defined group of relations, used in rules or laws to determine which members of a person's family are affected by those rules. It normally includes a person's parents, spouses, siblings and children. It can contain others connected by birth, adoption, marriage, civil partnership, or cohabitation, such as grandparents, grandchildren, siblings-in-law, half-siblings, adopted children and step-parents/step-children, and cohabiting partners.

Considerations for leave longer than three days or for leaves for deaths of relatives or friends other than specially listed will be evaluated on a case-by-case basis at the discretion of the Mayor and /or their designee.

36. Jury and Witness Duty Leave

Any regular full-time or regular part-time employee who is required to serve on a jury shall be allowed authorized leave with pay less any amount received (jury or witness fees) for such service. This may also include when an employee is subpoenaed as a witness or required to appear before a court or legislative committee/quasi-judicial body in response to a subpoena or other directive. A probationary employee called will have his/her probationary period extended to by the same amount of time as required for serving on jury duty. An employee who received notice of jury duty or witness service must notify his/her Supervisor immediately in order that arrangements may be made to cover the position. The Town of Stevensville reserves the right to request that an employee who is called for jury be excused if their absence would create a hardship on the operational effectiveness of the department to which they are assigned.

The employee is responsible to turn over jury or witness fees to the Human Resource Supervisor, excluding mileage and actual expense fees. If an employee chooses to use vacation leave, the employee may keep their jury or witness fees in addition to their mileage and actual expense fees. The employee may keep any witness fees or court payment if the services are performed on the days of his/her regularly scheduled weekend or days off. Benefits continue to accrue while an employee is on jury duty. If excused as a juror on any given day, the employee is expected to contact his or her Supervisor and to report to work as instructed.

37. Military Leave

The Town of Stevensville shall comply with all provisions outlined in the Uniformed Services Employment and Reemployment Rights Act (USERRA, 38 USC Sec. 4301, [4321] et seq) as well as all relevant state laws (to include Montana Military Service Employment Rights Act, MCA 10-1-1001 to 10-1-1027 et seq) as well as all relevant state laws covering members of the Montana Army and Air National Guard. An employee who is a member of the Montana National Guard or any United States military force or Reserve Corps and who has been an employee for a period of six months shall be given leave of absence with pay accruing at a rate of 120 hours per calendar year, for performing military service. This leave will not be charged against the employee's annual vacation time. Employees employed less than six months are entitled to unpaid leave for the purposes listed above.

38. Educational Leave/Training

The Town of Stevensville encourages training for employees where the training improves employee productivity, knowledge and skills when Town of Stevensville's services and programs will be more efficient and effective. The Town of Stevensville may provide full or partial funding for training that is a work-related program, seminar, conference, convention, etc., and is pre-approved by the employee's Supervisor, the Mayor and /or their designee.

Employees should consider training needs during annual evaluations, particularly if the training requires extensive time away from work, is of significant cost, and/or requires out-of-state travel. The Mayor and /or their designee may evaluate such training courses to ensure maximum value of the course. Additionally, the training may be delayed until future fiscal years to include the expense within the budget.

39. Participation in Community Organizations

The Town of Stevensville views personal development through service involvement as beneficial to the employee as well as positive exposure for our organization. Employees should consult with their Supervisor, the Mayor and /or their designee before volunteering for such organizations if work time may be required to attend activities, fundraisers, meetings, etc. Employees that have received pre-authorization from their Supervisor, the Mayor and/or their designee may attend such functions as excused, paid absence without using vacation leave. The employee's Supervisor, the Mayor and /or their designee will monitor the work time required to attend such functions to ensure the time is reasonable and the activity is projecting a positive image for the Town of Stevensville.

40. Participation in Professional Organizations

The Town of Stevensville views personal development through professional organizations as essential to keep abreast of changing laws, rules, and legal opinions as well as maintaining a network of professional colleagues which are beneficial for research, feedback and productive information. Professional contacts are also beneficial for the growth and image of the Town of Stevensville.

Employees are encouraged to pursue professional organization affiliations that represent a positive effect in the community, organization or community. Employees should consult with the Mayor and /or their designee before joining such organization if work time may be required to attend activities, training, meetings, etc. Employees that have received pre-authorization from their Supervisor, the Mayor and /or their designee may attend such functions as excused, paid absence without using vacation leave. The employee's Supervisor, the Mayor and /or their designee will monitor the work time required to attend such functions to ensure the time is reasonable and the activity is projecting a positive image for the Town of Stevensville.

41. Licensing Fees

The Town of Stevensville recognizes employees that associate with various organizations or maintain certifications or licenses are beneficial to the Membership and the Organization. If the Town of Stevensville has requested that an employee obtain a license, the Town of Stevensville will pay for the licensing fees and/or annual renewal fees.

All employees are encouraged to visit with their Supervisor and/or Mayor and /or their designee, particularly during the annual evaluations, so that the cost of maintaining a current license or the costs for a licensure that the employee would like to obtain can be included within the budget process.

42. Insurance

Regular employees may participate in the Town of Stevensville's benefit plan. The Town of Stevensville may pay a specified dollar amount into the benefit plan that the employee can use to pay for options elected. For regular part-time employees, the Town of Stevensville may pay a pro-rated amount of the contribution into the benefit plan.

Specific benefits of the benefit plan are described in the Plan Document and Summary Plan Description (available from the Human Resource Supervisor). For employees utilizing specific insurance products, the insurance plan documents will be forwarded to them directly from the Insurance Provider. The Insurance Provider will also supply insurance cards for the covered employee/dependents directly to the employee.

43. Retirement

Adopted by Council on 03/12/15; Amended by Resolution No. 365A 09-10-2015; Amended by Resolution No. 365B 11-12-2015; Amended by Resolution No. 365C 02-11-2016

The Town of Stevensville participates in the Montana Public Employees Retirement System (PERS). Employees working more than 960 hours per year are required to participate in PERS. Employees working less than 960 hours per year have the option of participating in PERS.

New employees have 12 months to choose which retirement option is right for you: The Defined Benefit Retirement Plan (DBRP) and the Defined Contribution Retirement Plan (DCRP). Information on both options is available online at www.mpera.mt.gov.

The Town of Stevensville will comply with employer and employee contribution rates as set by the Montana State Legislature.

44. Personal Appearance and Demeanor

Employees are expected to dress appropriately for their position, their daily activities, and their expected public contact. Employees attending business meetings, board meetings or other related contact should dress professionally in business attire. The office, though a casual atmosphere, may receive visitors, Council members, etc. and all personnel are to be dressed appropriately. Hair and clothes should be neat. Any part of an employee's dress, appearance or hygiene that is deemed unprofessional or that may endanger the employee and/or staff may be prohibited by the Mayor /or their designee. The Mayor and /or their designee may order an employee to take unpaid time to go home and change if their attire is not considered appropriate.

45. Smoking

Town of Stevensville offices and equipment are non-smoking entities. Employees may smoke during scheduled break periods and may smoke outside the building and/or vehicles. For those employees who do smoke common courtesy is encouraged by exercising the following:

Smoking within a presumptively reasonable distance from entrances, exits, windows that open and ventilation intakes that serve an enclosed area where smoking is prohibited so as to ensure that tobacco smoke does not enter the area through entrances, exits, open windows, or other means.

46. Sales Calls

Sales Calls from professional sales people are allowed to take place only at the discretion of the Department Supervisor, the Mayor and /or their designee, so long as it is done in a consistent and fair manner.

Employees requesting charitable contributions or selling products should visit with fellow employees before or after work, during lunch hour or breaks. Employees may also choose to circulate a catalog among co-workers to preview at their convenience. Employees should not be made to feel obligated to purchase items. Employees are expected to use professional judgment as to the subject matter of catalogs they may share with their co-workers.

47. Discipline

Upon suspected violation of federal, state or local laws, Town of Stevensville rules and/or regulations, employee conduct/behavior/performance standards, or Town of Stevensville policies, the employee may be subject to disciplinary action. The Supervisor of the employee in question shall notify the Mayor and /or their designee. The Mayor /or their designee may task the Supervisor and/or the Human Resource Supervisor to fully investigate and document situations that may require disciplinary action. Employees may be suspended (with or without pay) pending investigation. The employee will be interviewed during the investigation process. Prior to the investigation interview, the Supervisor, the Mayor and /or their designee will inform the employee of the suspected violation and in general terms what the interview will be regarding.

47. Discipline (continued)

The Supervisor, the Mayor and /or their designee, and/or the Human Resource Supervisor (if it is determined that they should attend) will meet and conduct the interview with the employee under investigation. The employee being interviewed may request an attendee of their choosing be present at the interview; however they will be permitted for observation only and will not be permitted to participate in the interview.

Upon conclusion of the investigation, it will be decided whether or not discipline needs to occur. The Supervisor, the Mayor and/or their designee or the Human Resource Supervisor will write a letter to the employee documenting the investigation, stating the findings and declaring the appropriate form of discipline.

The employee will be able to respond to the findings of the investigation. If the employee doesn't agree that the discipline was warranted or if they consider the disciplinary action inappropriate, the employee may follow the grievance procedure (outlined in #47 below). Appropriate discipline, as determined by the Town of Stevensville, will be rendered in one of the following forms:

Oral Reprimand

The Supervisor or the Mayor and /or their designee will meet with the employee and explain the problem as well as the necessary action required to correct the problem. The Supervisor or the Mayor and /or their designee will also outline the time period in which the employee must correct the problem and the consequences should the employee not conform or comply with the necessary action. The Supervisor or the Mayor and /or their designee will summarize the conversation with the employee in writing to document the disciplinary procedure as an oral reprimand. The employee and the Supervisor or the Mayor and /or their designee will sign the summary which attests that the meeting took place, that the employee understood the problem and the corrective action required. The summary will be placed in the employee's personnel file.

Written Reprimand

The Supervisor or the Mayor and /or their designee will document the problem in a letter to the employee. The Supervisor or the Mayor and /or their designee will meet with the employee, present the letter, and explain the problem. During the meeting the Supervisor or the Mayor and /or their designee will clarify the necessary corrective action, the time period to conform or comply with the corrective action, and the consequences should the employee not satisfactorily complete the necessary action. The letter to the employee will clarify that the employee is receiving a written reprimand as the disciplinary procedure. A copy of the letter must be signed by the employee that attests the employee participated in the meeting, understood the problem and the corrective action required, and received the written reprimand.

47. Discipline (continued)

Suspension (with or without pay)

The Supervisor will make an initial recommendation that the employee should be placed on suspension (with or without pay), present that recommendation to the Mayor who will then make the final determination whether or not to place the employee on paid or unpaid suspension.

The Mayor and /or their designee will document the problem in a letter to the employee and indicate whether the employee is being suspended with or without pay. The Mayor and /or their designee will meet with the employee, present the letter, explain the problem and inform the employee of the severity of the discipline received. During the meeting the Mayor and /or their designee will clarify the necessary corrective action, the time period to conform or comply with the corrective action, and the consequences should the employee not do the necessary action. The letter to the employee will clarify the effective dates of the suspension (with or without pay) and the date and work schedule and the date that the employee is to return to work. A copy of the letter must be signed by the employee that attests the employee participated in the meeting, understood the problem and the corrective action required, and that the form of discipline was suspension (with or without pay).

Demotion - Loss of Duty

The Supervisor will make an initial recommendation that the employee should be demoted or incur a loss of duty, present that recommendation to the Mayor who will then make the final determination whether or not to demote the employee.

The Mayor and /or their designee will document the problem in a letter to the employee and indicate the specific conditions of the demotion to include modified job duties and compensation, as warranted. The Mayor and /or their designee will meet with the employee, present the letter, explain the problem and inform the employee of the severity of the discipline received. During the meeting, the Mayor and /or their designee will clarify the necessary corrective action, the time period to conform or comply with the corrective action and the consequences should the employee not do the necessary action. The Mayor and /or their designee will determine if the demotion is a temporary disciplinary measure or a permanent job modification. In the event the demotion is a permanent job modification, the employee's job description will be updated to reflect such. A copy of the letter must be signed by the employee that attests the employee participated in the meeting, understood the problem and the corrective action required and that the form of discipline was a temporary or permanent demotion and loss of job duties/responsibilities. If the employee's job description was updated, the employee must sign the updated job description to reflect that the employee has had the modified duties communicated to the employee.

47. Discipline (continued)

Termination

If the appropriate disciplinary action is termination, the Mayor will write a letter to the employee that documents the problem and summarize the results of the investigation. The letter will detail the effective cause and date of discharge. The letter shall also include a copy of the Grievance Procedure Policies advising the employee of their right to use the procedures.

48. Grievance Procedure

Regular employees are allowed to use the grievance procedure without penalty, harassment or retaliation for doing so. Each grievance will be fully processed until the employee receives a satisfactory decision/explanation or until the employee's right of appeal is exhausted.

Employees should attempt to resolve all disputes prior to involving the Mayor and /or their designee. Employees are encouraged to discuss disputes with their Supervisors informally and in a timely fashion. The Human Resource Supervisor may attend meetings between the Supervisor and employee if necessary. In the event a dispute cannot be resolved informally, the employee should file a grievance, in writing using the Town's Employee Grievance Form, to the Supervisor and/or their designee within ten business days of the occurrence of the disputed issue. The written grievance form should outline the disputed issue, relevant facts, and appropriate remedy. Upon receipt of the written grievance form, the Supervisor and/or their designee will investigate the dispute and respond to the grievance within ten business days of receipt of the grievance.

If the response is not acceptable to the employee, the employee may proceed to the next step. The employee may forward the written grievance form and Supervisor and/or their designee's response to the Mayor and /or their designee within 14 business days from the date of the Supervisor and/or their designee's response. The Mayor and /or their designee will investigate the grievance. The Mayor and /or their designee shall conclude their investigation and write a report within 30 calendar days from receipt of the grievance appeal. This step concludes the final appeal process for the employee.

Information concerning employee grievances is confidential information and is to be discussed only with individuals involved in the investigation or on a need-to-know basis. Management decisions on grievances will not set precedent and are at the discretion of the Mayor and /or their designee so long as it does not violate any laws, regulations or policies set forth in this manual. Management decisions are not binding on future grievances unless they are officially stated as a policy.

49. Breast Feeding in the Workplace Policy

Women returning from maternity leave who wish to continue breastfeeding or separate expression of milk for their child(ren) will be provided a private space (other than a toilet stall) with suitable lighting and electricity if necessary for pumping apparatus. The selection of the space will be made on a case-by-case basis in consultation with the employee. Standard break times will be primarily utilized with additional unpaid break time provided as mutually agreed upon. Additionally, the Town will make every effort to provide suitable facilities for milk storage during the employee's daily work period. All requirements listed in MCA 39-2-215, 39-2-216, 39-2-217, whether or not specifically listed here, will be complied with.

50. Professionalism Policy

This Professionalism Policy is applicable to all Employees of the Town of Stevensville.

I. Code of Ethics

A. The Town requires ethical conduct in any and all activities that impact the wellbeing of our Town, which the Employees represent.

B. Employees hold important roles in local government. They are positioned to ensure that the Town's interests are balanced, protected and preserved. This Code provides principals that Employees must adhere to and advocate. This Code is designed to deter wrongdoing and to promote:

1. Honest and ethical conduct including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships;
2. Full, fair, accurate, timely and understandable disclosures in reports and documents;
3. Compliance with applicable governmental laws, rules and regulations;
4. The prompt internal reporting of complaints to their Supervisor; and
5. Accountability for adherence to this Code.

50. Professionalism Policy

I. Code of Ethics (continued)

C. Employees will:

1. Act at all times with honesty and integrity, avoiding actual or apparent conflicts of interest in personal and professional relationships.
2. Discuss with their Supervisors, in advance, any transaction that reasonably could be expected to give rise to a conflict of interest.
3. Comply with the Town's Personnel Policy Manual.
4. Act in good faith with due care and diligence and without knowingly misrepresenting material facts.
5. Protect and respect the confidentiality of information acquired in the course of their work except when authorized or legally obligated to disclose. Confidential information acquired in the course of their work will not be used for personal advantage.
6. Be recognized as a responsible colleague among fellow employees.
7. Responsibly use time and resources employed or entrusted to their supervision.
8. Promote and be an example of ethical behavior as a responsible Employee or Supervisor in the work environment and the community.
9. Promptly report to their Supervisor any conduct that the individual believes to be a violation of the law, the Town of Stevensville Professionalism Policy, or the Town of Stevensville Personnel Policy Manual, including the circumstance or relationship that reasonably could be expected to give rise to such conflict;

D. It is against the Town's policy to retaliate against any employee for good faith reporting of violations of this Code.

50. Professionalism Policy

II. Conflict of Interest

A. The underlying principle of “conflict of interest” is that Employees should avoid any activity, investment or interest that might reflect unfavorably on the reputation of the Town of Stevensville.

B. As representatives of the Town of Stevensville, Employees are obligated to place the interest of the Town, in any transaction involving the Town, ahead of any personal interest or personal gain, and to disclose all facts in any situation where a potential conflict of interest may arise.

C. Employees may not engage in a transaction, use public or confidential information, improperly influence a decision or transaction, or take any other action in regard to their position as an Employee of the Town of Stevensville that would create a personal economic or other benefit to the Employee.

D. Employees are expected to seek clarification of and discuss any questions about potential conflict of interest with their Supervisor and the Mayor.

III. Confidentiality

A. Employees are expected to protect and maintain confidentiality regarding the Town’s property including cash, equipment, records, and employee and/or customer information.

B. Employees shall not disclose or use confidential information acquired in the course of official duties.

IV. Violations

Violations of the Professionalism Policy, including failure to report potential violations by others will be viewed as a severe disciplinary matter that may result in personnel action including termination of employment.

April 11, 2019

Mayor Brandon E. Dewey
206 Buck Street
Stevensville, MT 59870

Dear Mayor Dewey,

It is with a heavy heart that I am submitting my resignation from my position as the Town of Stevensville's Town Clerk/Zoning Administrator. My resignation is effective today, Friday, April 11th.

I apologize for the short notice, however, due to the continued, relentless harassment, bullying and retaliation actions by the Stevensville Town Council, I can no longer endure the intolerable working conditions and environment.

I would like to take this opportunity to thank you for everything you have done for me. I am very grateful for the time I have spent on our team and the professional relationships I have built. It has truly been a pleasure working for you and I hope our paths will cross again in the future.

Sincerely,

Audree Tribbensee

Audree Tribbensee



Rachel De Arman

From: Audree Tribbensee <atribb54@gmail.com>
Sent: Monday, April 15, 2019 1:23 PM
To: Rachel De Arman
Subject: Fwd: Fw: Town Clerk Resignation
Attachments: image003.png

----- Forwarded message -----

From: Brandon Dewey <brandon@townofstevensville.com>
Date: Mon, Apr 15, 2019, 1:06 PM
Subject: Fw: Town Clerk Resignation
To:

From: Brandon Dewey
Sent: Monday, April 15, 2019 1:05 PM
To: Bob Michalson
Cc: Brian West
Subject: Re: Town Clerk Resignation

Mr. Michalson,

Please do not insult me by regurgitating municipal code to me in an email, especially one that you've sent to the entire staff and all members of the organization. I am fully aware of and familiar with our ordinances, as I interact with them on a daily basis as the Mayor.

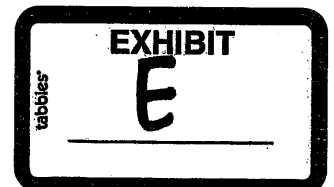
While I do not disagree with you that a full-time clerk is required to adequately meet the needs of the organization, the Town Council has again put me in an impossible position. I had already hired a Town Clerk this past year. But, because of the abuse and mistreatment that yourself and other members of the Council subjected her to, she resigned. This is the second Town Clerk in 12 months to cite the miserable and harassing environment created by Council as the reason behind their resignation. The Town of Stevensville cannot afford to subject yet another employee to this situation.

To be as clear as I can, I will not be appointing a Town Clerk until Council takes corrective action on their behavior and interactions with the staff and Mayor's Office.

I will not be taking any action on the hiring of the Town Clerk, or Council's decision to rescind the re-organization plan, until I receive a response from the City Attorney in regard to my request sent on Friday.

Sincerely,

BRANDON E. DEWEY



TOWN OF STEVENSVILLE
406.777.5271 x108
BRANDON@TOWNOFSTEVENSVILLE.COM

THIS E-MAIL AND ITS ATTACHMENTS MAY BE CONFIDENTIAL AND ARE INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED. ANY VIEWS OR OPINIONS EXPRESSED ARE SOLELY THOSE OF THE AUTHOR AND DO NOT NECESSARILY REPRESENT THOSE OF THE TOWN OF STEVENSVILLE. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL AND ITS ATTACHMENTS, YOU MUST TAKE NO ACTION BASED UPON THEM, NOR MUST YOU COPY OR SHOW THEM TO ANYONE. PLEASE CONTACT THE SENDER IF YOU BELIEVE YOU HAVE RECEIVED THIS E-MAIL IN ERROR. MESSAGES AND ATTACHMENTS SENT TO OR FROM THIS E-MAIL ACCOUNT PERTAINING TO TOWN OF STEVENSVILLE BUSINESS MAY BE CONSIDERED PUBLIC RECORD OR PRIVATE RECORDS DEPENDING ON THE MESSAGE CONTENT UNDER MONTANA'S RIGHT TO KNOW LAWS.

From: Bob Michalson
Sent: Monday, April 15, 2019 11:25 AM
To: Brandon Dewey; Council 2019
Cc: Staff; Jeff Motley; Brian West
Subject: Re: Town Clerk Resignation

Mayor Dewey,

Under Town ordinance Article IV, .Sec. 2-126. - Duties of town clerk and treasurer. (12)

To attend all meetings of the council, to record and sign the proceedings thereof and all ordinances, bylaws, resolutions and contracts passed, adopted, or entered into, and to sign, number and keep a record of all licenses and commissions, or permits granted or authorized by the council. This says we need to have a full-time clerk. I realize Denice is the Deputy Clerk, but we need a full time clerk. Denice has enough to do. Also under Sec. 2-120. - Council may abolish officers.

The municipal council has the power to abolish any office, except that of city judge, the appointment to which is made by the mayor with the advice and consent of the council and may discharge any officer so appointed, by a majority vote of the council.

regards
bob Michalson
town council president
ward 2
town of stevensville

From: Brandon Dewey
Sent: Friday, April 12, 2019 11:49:51 AM
To: Council 2019
Cc: Staff; Jeff Motley
Subject: Town Clerk Resignation

Councilmembers,

It is with extreme sadness, frustration and great disappointment that I inform you that Audree has resigned her position with the Town of Stevensville effective today, April 12th. Audree's resignation is attached.

I know I speak for the entire staff and community that it has been a great privilege to have Audree on board serving Stevensville with professionalism and integrity. Audree's expertise in governance

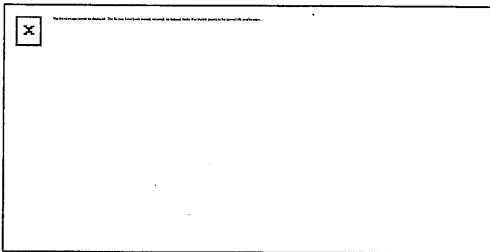
al workings will be missed tremendously and the impact of her resignation will be felt throughout the organization. It is my hope that Audree holds her head high with pride as she departs this afternoon, knowing that she did the best she could with circumstances outside her control.

Considering this resignation, I will not be immediately recruiting for the position until the bullying, harassment and poor treatment of this position by the Council are addressed. At this time, I cannot in good-faith or conscience subject a third employee in a 12-month period to the current climate, which continues to deteriorate.

Sincerely,



BRANDON E. DEWEY
MAYOR
TOWN OF STEVENSVILLE
406.777.5271 x108
BRANDON@TOWNOFSTEVENSVILLE.COM



THIS E-MAIL AND ITS ATTACHMENTS MAY BE CONFIDENTIAL AND ARE INTENDED SOLELY FOR THE USE OF THE INDIVIDUAL TO WHOM IT IS ADDRESSED. ANY VIEWS OR OPINIONS EXPRESSED ARE SOLELY THOSE OF THE AUTHOR AND DO NOT NECESSARILY REPRESENT THOSE OF THE TOWN OF STEVENSVILLE. IF YOU ARE NOT THE INTENDED RECIPIENT OF THIS E-MAIL AND ITS ATTACHMENTS, YOU MUST TAKE NO ACTION BASED UPON THEM, NOR MUST YOU COPY OR SHOW THEM TO ANYONE. PLEASE CONTACT THE SENDER IF YOU BELIEVE YOU HAVE RECEIVED THIS E-MAIL IN ERROR. MESSAGES AND ATTACHMENTS SENT TO OR FROM THIS E-MAIL ACCOUNT PERTAINING TO TOWN OF STEVENSVILLE BUSINESS MAY BE CONSIDERED PUBLIC RECORD OR PRIVATE RECORDS DEPENDING ON THE MESSAGE CONTENT UNDER MONTANA'S RIGHT TO KNOW LAWS.

Town of Stevensville Personnel Policy Manual

- The affairs of the Town of Stevensville are important and are to be considered a confidential trust as well as a responsibility. Employee attitude, ability and productivity and a sense of responsibility are critical aspects of all job descriptions.

3. Authority for Personnel Action

The Town of Stevensville reserves the right to direct, hire, promote, transfer, assign and retain employees. The Town of Stevensville also reserves the right to supervise, discipline, and relieve employees from their duties for any reason determined sufficient by the Town of Stevensville; as well as determine and change hours of work, shifts, and operational methods. The policies, practices, rules, and regulations may be established or changed/abolished with the sole discretion of the Town of Stevensville. The Mayor and/or their designee will execute personnel actions at their discretion, with consultation and/or consent from the Human Resource Representative/Clerk/Town Attorney when necessary and consistent with all applicable laws, regulations and this policy.

4. Diversity, Harassment and Bullying Prevention

A. Equal Employment Opportunity Statement

It is the policy of the Town of Stevensville to ensure equal employment opportunity (as defined by the Equal Employment Opportunity Commission (EEOC)) and the Montana Human Rights Act for all employees. The Town of Stevensville promotes and affords equal treatment and services to all citizens, employees and representatives. The Town of Stevensville assures equal employment opportunity regardless of race, color, religion, national origin, creed, sex, marital status, veteran/military status, genetic history, political belief, age or disability, (as defined by the Americans with Disabilities Act and ADA Amendments Act).

If an employee perceives he/she has been discriminated against, he/she should notify their immediate supervisor or the Mayor or their designee.

B. Americans with Disabilities Act (ADA) and the ADA Amendments Act (ADAAA)

The Town of Stevensville is committed to complying with all applicable provisions of the Americans with Disabilities Act (ADA), the ADA Amendments Act and equivalent state disability laws. It is the Town of Stevensville's policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability or perceived disability so long as the employee can perform the essential functions of the job with or without a reasonable accommodation. Consistent with this policy of nondiscrimination, the Town of Stevensville will provide reasonable accommodations to a qualified individual with a disability, provided that such accommodation does not constitute an undue hardship on the Town of Stevensville and/or a direct threat to the health and/or safety of the individual or others.



Town of Stevensville Personnel Policy Manual

Employees or applicants who believe they need a reasonable accommodation to perform the essential functions of their job should contact the Mayor or other designee and request such an accommodation. The Town of Stevensville will conduct an investigation to identify the barriers that make it difficult for the applicant or employee to have an equal opportunity to perform his or her job. The Town of Stevensville will then identify possible accommodations, if any, that will help to eliminate the limitation or barrier. If the accommodation is reasonable and will not impose an undue hardship on the Town of Stevensville and/or a direct threat to the health and/or safety of the individual or others, the Town of Stevensville will make the accommodation. The Town of Stevensville may also propose an alternative accommodation(s). Town of Stevensville is not required to provide the accommodation preferred by the individual, to reallocate essential job functions, or to provide personal use items (i.e., eyeglasses, hearing aids, wheelchairs, etc.)

The Town of Stevensville will also make reasonable accommodations for conditions related to pregnancy, childbirth or related medical conditions, if requested with the advice of the employee's health care provider, as required by law.

C. Harassment Prevention and Reporting

It is the policy of the Town of Stevensville that harassment, based on a protected class will not be tolerated. Each individual has a right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment. Therefore, employees are expected to act in a professional, cooperative and respectful manner to all contacts.

It is the policy of the Town of Stevensville to ensure equal employment opportunity without discrimination or harassment on the basis of race, color, religion, national origin, creed, sex, marital status, veteran/military status, genetic history, political belief, age or disability both in or outside the workplace, on or off shift, in person or via electronic communication such as email, social media, etc.

Any employee who perceives a conversation or event as harassment, whether the employee is involved or merely observing, should explain to the offender in a calm, but firm manner that the action is perceived as inappropriate and the employee wishes the behavior to stop. Should the behavior continue, the employee should report the activity to their supervisor, or the Mayor or designee.

The Town of Stevensville encourages reporting of all perceived incidents of discrimination or harassment. It is the policy of the Town of Stevensville to promptly and thoroughly investigate such reports with due regard to confidentiality. The results of the investigation will be communicated to the complainant and the offender. Discipline will follow guidance found in the Discipline Policy.

A follow up review will be completed if harassment allegations have been made to ensure the harassment has discontinued and all parties involved are not subjected to retaliatory behaviors.

Town of Stevensville Personnel Policy Manual

Definitions of Harassment

Sexual Harassment: According to the EEOC and Montana Human Rights Bureau, sexual harassment may include, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical advances of a sexual nature. For example:

- Occasions when such conduct, either explicitly or implicitly, is a term or condition of employment
- Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individuals
- Such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Sexual harassment may include a range of subtle and not-so-subtle behaviors and may involve individuals of the same or different gender. Examples may include unwanted sexual advances or requests for sexual favors; sexual jokes or innuendo; verbal abuse of a sexual nature; commentary about an individual's body, sexual prowess or sexual deficiencies; gestures; suggestive objects of pictures or other physical, verbal or visual conduct of a sexual nature.

Other Harassment: Harassing behavior based on any other protected characteristic. For example: verbal, written or physical conduct that denigrates or shows hostility or aversion toward another because of his/her race, color, religion, national origin, creed, sex, marital status, genetic history, sexual orientation, political belief, age or disability

Retaliation

No hardship, no loss or benefit, and no penalty may be imposed on an employee as punishment for:

- Filing or responding to a bona fide complaint of discrimination or harassment;
- Appearing as a witness in the investigation of a complaint; or
- Serving as an investigator.

Please report any retaliation to your supervisor, or the Mayor or designee, within 10 calendar days of occurrence. Any report of retaliatory conduct will be objectively, timely and thoroughly investigated in accordance with the Town of Stevensville's investigation procedure. Retaliation or attempted retaliation is a violation of this Policy and anyone who does so will be subject to disciplinary actions, up to and including termination.

Town of Stevensville Personnel Policy Manual

D. Work Place Bullying and Prevention

1) Definition

Workplace Bullying is repeated, health-harming mistreatment of one or more persons (the targets) by one or more perpetrators that takes one or more of the following forms:

- Verbal abuse
- Conduct which is threatening, humiliating, or intimidating
- Work interference, sabotage, which prevents work from getting done
- Exploitation of a known psychological or physical vulnerability

Workplace bullying can generally be considered as negative acts directed toward employees. However, acts of bullying may also include negative acts towards supervision. These include but are not limited to:

- Intimidating or undermining employees or supervisors by demeaning their work standards, not giving them credit, setting them up for failure and constantly reminding them of old mistakes
- Threatening employees' or a supervisor's personal self-esteem and work status.
- Isolating employees/co-workers from opportunities, information and interaction with others.
- Giving impossible deadlines, creating undue pressure and stress, and overworking employees.

2) Training

All employees are to receive annual training regarding Bullying, harassment, and sexual harassment in the Workplace.

5. Confidential Information/Personal Gain

Employees of the Town of Stevensville may deal with confidential information. It is imperative that employees maintain Town of Stevensville integrity and not discuss Town of Stevensville business with people who should not be privy to the information. In some circumstances, Town of Stevensville business should be revealed to other Town of Stevensville employees on a need-to-know basis. If an employee has questions regarding confidential information and to whom the information should be revealed, they should consult with the Mayor and/or their designee, or with Town of Stevensville's legal counsel.

Item Attachment Documents:

- a. Discussion/Decision: Mayor's Veto of Council's appointment of James V. Crews to Ward 2 Council Vacancy



Stevensville Town Council Meeting

Agenda Item Request

To Be Submitted BEFORE Noon on the Wednesday before the Council Meeting

Agenda Item Type:	New Business
Person Submitting the Agenda Item:	Brandon E. Dewey
Second Person Submitting the Agenda Item:	
Submitter Title:	Mayor
Submitter Phone:	
Submitter Email:	
Requested Council Meeting Date for Item:	7/3/2019
Agenda Topic:	Discussion/Decision: Mayor's Veto of Council's appointment of James V. Crews to Ward 2 Council Vacancy
Backup Documents Attached?	Yes
If no, why not?	
Approved/Disapproved?	Approved
If Approved, Meeting Date for Consideration:	7/3/2019
Notes:	



Mayor Brandon E. Dewey

206 Buck St. • P.O. Box 30 Stevensville, MT 59870
406-777-5271 office • 406-777-4284 fax

MEMORANDUM

TO: Stevensville Town Council
FROM: Mayor Brandon E. Dewey *BD*
SUBJECT: **Veto of Ward 2 Council Appointment**
DATE: June 21, 2019
CC: Brian West, Town Attorney

In accordance with Stevensville Municipal Code §2-24(6), I hereby veto Council's June 13, 2019 resolution to appoint James V. Crews as Ward Two Councilmember of the Stevensville Town Council. I veto this resolution for reasons listed below.

As discussed within the organization previously, there is likely a violation of Montana's Right to Participation and Right to Know. Specifically, Montana Constitution article II, §§ 8, 9, as enacted in Montana Code Annotated § 2-3-103(1).

MCA Section 2-3-103(1)(a) provides that the governmental body must establish procedures, which "ensure adequate notice and assist public participation before a final agency action is taken that is of significant public interest to the public." The appointment of a member to the Stevensville Town Council will almost certainly be considered a matter of "significant public interest." This has been demonstrated by attendance to Stevensville's Town Council meetings when an appointment is clearly stated on the agenda. Additionally, the case of Jones v. County of Missoula, 2006 discusses public interest and in part relies on a 1998 opinion by the Montana Attorney General, which held that "significant public interest" is "any non-ministerial decision or action of a county commission which has meaning to or affects a portion of the community". Municipal Councils are held to no different standard with regard to the citizens' right to know than County Commissions. The appointment of an individual to represent the residents of Ward 2 is undoubtedly of significant interest to our citizens.

MCA Section 2-3-103(1)(a) also provides that "the agency may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter." the notice provided was likely not the "specific notice" required by Montana law, in particular, because the notice

stated only “Discussion/Decision: Ward 2 Council vacancy” under “Unfinished Business” and then “Discussion/Decision to suspend Council Rules in order to nominate and appoint a candidate to the Council from Stevensville, Ward 2” under “New Business”. Noticeably lacking is a name. Arguably, the failure to provide a name of exactly who the Council was planning to appoint was not “specific notice” of the Council’s action.

Throughout the process to replace the vacancy created by the resignation of Jerry Phillips, there have been procedural inconsistencies and questions of legality surrounding the final appointment. As the top-elected-official of Stevensville, I insist that the process to fill the vacancy of Councilmember in the 2nd Ward be repeated in complete compliance with the procedures set forth in the Council’s adopted rules. Extra attention should be given to protect and guarantee our citizens rights to know and participate.

In his 6/19/19 Memo in regard to the appointment of the ward to vacancy, Town Attorney Brian West states that “[a] review of a number of prior agenda items indicates that in the past, the Town has noticed appointments as a single agenda item and typically referenced the individual who was to be appointed.” He goes on to state that “Any time there is a departure from the normal protocol, there is an increased chance that the decision could be challenged leading to additional delay and administrative costs for the Town.” As stewards of the public trust, the Council should take every possible precaution to protect the Town of Stevensville from additional cost, or worse litigation because of malfeasance, failure of follow-through on their adopted policies, and disregard for the constitutional rights of our citizens.

In conclusion, it is in the best interests of the Town of Stevensville, the Town Council, and most imperatively the citizens of Stevensville to confirm my veto, and undertake the process that they have adopted under their Council Rules.

First In Montana - 1841

TOWN OF STEVENSVILLE

P.O. Box 30
Stevensville, MT 59870
406-777-5271

Home of Historic
Fort Owen and St. Mary's Mission

June 24, 2019

Mayor Brandon Dewey

Council President Bob Michalson

Town Hall
PO Box 30
Stevensville, MT 59870

VIA: Email to: mayor@townofstevensville.com
bob@townofstevensville.com

RE: Mayor's 6/21/19 Veto re: Jim Crew's Appointment

This memo is in response to Council President's request for review of Mayor Dewey's June 21, 2019 Veto memorandum.

Background

The Town Council voted to appoint Jim Crews to the Ward 2 Council vacancy on June 13, 2019. While the process deviated from the customary approach, I found that sufficient notice was given that an appointment was being considered.¹ On June 21, 2019, the Mayor issued a veto notice based on Stevensville Municipal Code (SMC) §2-24(6). The Council President asks whether the veto is binding on the Council's appointment.

Short Answer

No. The Mayor's concerns regarding notice notwithstanding, veto powers are traditionally considered as extending to legislative acts. The act of appointing a replacement to a vacate council seat is administrative or quasi-judicial in nature and not subject to executive veto.

Legal Support

¹ See Town Attorney Memo, "Appointment of Ward 2 Vacancy" June 19, 2019.

Ordinances are municipal laws which generally impose sanctions for violations, while resolutions are statements of town policy.² Both require the approval of the Mayor for passage.³ Stevensville's local ordinances grant the Mayor the power to "...veto any objectionable part of a resolution or ordinance, and approve the other parts..."⁴ Any veto issued must be returned to the Council before the next regular meeting with objections in writing.⁵ Local ordinance grants to the Council the authority to appoint a replacement to a vacancy on the Council.⁶

Discussion

There is a distinction in Montana law between legislative acts, administrative acts, or quasi-judicial acts.⁷ The action taken by the Council to appoint a replacement for the Ward 2 member was not a legislative act and was an administrative act. While I have not located an exact Montana case on the matter, it is roughly equivalent to an early 20th-century decision by the Montana Supreme Court in *State ex rel. Wilson v. Willis* concerning appointment to the Butte City Council. The Mayor of Butte contested the appointment stating an election had not occurred based on number of members voting and the clerk refused to file the oath of the newly appointed councilmember. While the decision focused on the legally sufficient number of votes to appoint a replacement, the Court touched on the interplay between the Council and the mayor's office for appointment:

Neither did the right of [the Councilmember] to participate in the meeting of May 5 depend upon recognition by the mayor or the decision of the district court. It depended upon whether he had been in fact chosen by the council and whether he had taken and subscribed the constitutional oath; both conditions having been met, there was no legal obstacle to the exercise by him, on May 5, of all rights and privileges of the office.⁸

I find this similar to the *Wilson* matter, the Council's approval and the oath of office is the requisite to taking a vacant position, where nothing in law requires the Mayor's approval of the Council's vote to appoint a replacement.

² SMC §§[2-81](#) & [2-83](#). Note that simply titling an action "ordinance" or "resolution" does not definitively make them one or the other if the action taken differs. See *Town of Whitehall* below at ¶¶27-28.

³ *Id.*

⁴ [SMC §2-24\(7\)](#)

⁵ [SMC §2-24\(6\)](#), see also MCA §§[7-5-106](#) & [7-5-122](#) (2017).

⁶ [SMC §2-118\(a\)](#)

⁷ *Town of Whitehall v. Preece*, 199 MT 53, ¶21 where the Court found initiative and referendum challenges

⁸ *State ex rel. Wilson v. Willis*, 47 Mont. 548, 553 (1913).

Sincerely,

A handwritten signature in blue ink, appearing to read "Brian J. West". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Brian J. West
Town Attorney

Brandon E. Dewey
Mayor of Stevensville

Denise Philley
Deputy Clerk



Stevensville Town Hall
206 Buck Street
Stevensville, MT 59870
Phone: 406-777-5271

July 1, 2019

Councilmembers,

Mr. West's response to my veto under Stevensville Municipal Code § 2-24(6) argues that the Town Council's action was administrative rather than legislative, and, thus, the Mayor does not have the authority to veto it. Mr. West cites no on-point authority for his proposition but argues that a 1913 case regarding the appointment of a councilmember is persuasive authority.

In *Wilson*, the Montana Supreme Court examined whether the vote of a council member elected by eight members of the city council was sufficient, when the council contained sixteen members, one had resigned, and only fifteen had voted. Then the Supreme Court examined whether, regardless of the sufficiency of the vote, the mayor's lack of formally recognizing the new councilmember was enough to declare the new councilmember's vote null. The Court held that the action of the Council was sufficient, and that the new councilmember did not need the official "certificate of election" or "recognition" by the mayor to be on the city council. The problem with this analysis, however, is that the statutes are different. In *Wilson*, the statute placed no limit on the timeframe for appointment, and gave the council discretionary power to appoint a successor: "When any vacancy occurs in any elective office, the council, by a majority vote of the members, may fill the same for the unexpired term, and until the qualification of the successor."¹

However, both Stevensville Municipal Code § 2-118 and Montana Code Annotated § 7-4-412, provide that the Council "shall, by a majority vote of the members, appoint a person within 30 days of the vacancy to hold the office until a successor is elected and qualified." There are some differences between that language and *Wilson*. First, there is a time frame for the action, 30 days, which was clearly not met. Therefore, the Council is *not* acting out of some direct authority by statute. Second, there's a difference between "may fill" and "shall . . . appoint." Appoint connotes official, required action,

¹ *State ex rel. Wilson v. Willis*, 47 Mont. 548, 551-52, 133 P. 962, 964 (1913)



making an order to have it done. “[M]ay fill” is looser and appears to give the Council much more leeway. I argue that *Wilson* is simply not on point, given the changes in the statute.

A “resolution” is a “statement of policy by the governing body or an order by the governing body that a specific action be taken.”² Similarly, Black’s Law Dictionary defines “resolution” as “[a] main motion that formally expresses the sense, will, or action of a deliberative assembly (esp. a legislative body).”

The Council has the power to “make and pass all bylaws, ordinances, orders and resolutions.”³ And, when there is a vacancy on the Council, the Council “shall, by a majority vote of the members, appoint a person within 30 days of the vacancy to hold the office until his successor is elected and qualified.”⁴

It is apparent that Montana’s legal definition of “resolution,” that it is a “order by the governing body that a specific action be taken,” is equivalent to what happened under SMC § 2-118, where the Council made a motion to appoint Mr. Crews, seconded the motion, discussed the motion, and voted to pass the motion. While the action lacked the formal documents normally associated with a resolution, it nonetheless was an “order” by the Council that “specific action be taken.”⁵ The Council voted to appoint Mr. Crews to the Council. Notably, Montana Code does not require that the “order” be a formal document necessarily.

Further, the Council was under an obligation to appoint a replacement within thirty days, which it clearly did not do. Given the lack of statutory authority to act, one could reason that the Council was acting beyond its express statutory grant of power (unlike *Wilson*), and its actions amounted to an official resolution to appoint Mr. Crews to the Council.

² Mont. Code Ann. § 7-1-4121(22)

³ SMC § 2-56

⁴ SMC § 2-118

⁵ Mont. Code Ann. § 7-1-4121(22)

Brandon E. Dewey
Mayor of Stevensville

Denise Philley
Deputy Clerk



Stevensville Town Hall
206 Buck Street
Stevensville, MT 59870
Phone: 406-777-5271

With this information, it is prudent that the Council declare a vacancy in the office of ward 2 councilmember, and undertake the process outlined in the Council's rules to appoint the vacancy.

Sincerely,

A handwritten signature in blue ink that reads "Brandon E. Dewey". The signature is written in a cursive style with a long horizontal stroke at the end.

Brandon E. Dewey
Mayor

Item Attachment Documents:

- b. Discussion/Decision: Consent to Mayor's appointment of Scott B. Owens as City Attorney



Stevensville Town Council Meeting

Agenda Item Request

To Be Submitted BEFORE Noon on the Wednesday before the Council Meeting

Agenda Item Type:	New Business
Person Submitting the Agenda Item:	Brandon E. Dewey
Second Person Submitting the Agenda Item:	
Submitter Title:	Mayor
Submitter Phone:	
Submitter Email:	
Requested Council Meeting Date for Item:	7/3/2019
Agenda Topic:	Discussion/Decision: Consent of Mayor's appointment of Scott B. Owens as City Attorney
Backup Documents Attached?	Yes
If no, why not?	
Approved/Disapproved?	Approved
If Approved, Meeting Date for Consideration:	7/3/2019
Notes:	

Town of Stevensville Legal Services Proposal

1. Availability Commitment:

I am committed to providing consistent and available legal counsel to the Town. I propose to be available in Town of Stevensville assist and participate in Town business as it occurs. It is my full intent to be an integrated member of the Town's Administration who is available to provide necessary legal counsel on the issues facing the Town.

Additionally, I will establish a court schedule which will allow me to be in the City Court throughout the week. As criminal hearings conclude I will be establishing additional hours in town on these days to address pending civil issues and assist the Town Administration. Further, I believe it is of the utmost importance that each member of the Town Council and Town Administration understand that I will be available at any time by either phone or email. My personal cell phone number is (406) 450-7268 and I will encourage council members and staff to contact me directly with issues as they encounter them.

Finally, I have experience assisting the City Attorney for East Helena and Deer Lodge in various matters. Through this experience, I have found that it is sometimes necessary for Officers to have legal advice during their shifts, often on nights and weekends. I am committed to working with the Department heads to establish a protocol through which they can contact me directly at any time of day.

2. Description of Education:

I received my undergraduate degree from Montana State University in Sociology/Criminal Justice in December of 2007. I received my law degree from University of Montana in May of 2011. My education at the University of Montana had a focus not only on the politics of Montana but also more broadly on local government. In particular, I completed courses on local city governance, property, land use and zoning, real estate planning, criminal law and criminal procedure. While in Law School, my education focused on local governance and the issues facing local communities.

I have been a member of the Montana Army National Guard for over 19 years. Currently, I serve in the JAG Corp as Trial Defense Counsel for the Montana Army National Guard. In 2017, I graduated from the Judge Advocate Officer Basic Course at the University of Virginia. This training has expanded my legal knowledge in governmental entities, government grants and contracts, and labor and employment areas.

Over the past three years I have assisted the City Attorney in East Helena and Deer Lodge on various issues. Through this assistance, I have been exposed to multiple issues and topics facing local municipalities.

member of the Montana State Bar, license number 12459, and am admitted to practice in the State and Federal courts of Montana.

3. Professional Experience:

Currently, I am a solo-practitioner and owner of Owens Law Firm, PLLC. My office was established in 2013 providing legal assistance to clients located in multiple counties throughout Montana. This is a small business and I have no employees. While my office is temporarily located in Helena, I am in transition to Missoula, where I currently reside. In my practice, I have provided assistance in multiple areas of law: family law, criminal law, probate/wills, contracts, general business operations, and assistance on municipal matters.

My former partner, Peter Elverum, is currently the City Attorney for both East Helena and Deer Lodge. In my assistance to Mr. Elverum, I have had the experience of providing legal counsel and advice to the Mayor and City Council on legal matters and advising during City Council meetings. Through this relationship with Mr. Elverum, I have dedicated support in any municipal matter that I may encounter.

Additionally, I have litigated multiple misdemeanor crimes arising in the City Courts. I have also had experience litigating misdemeanor and felony cases at throughout the Justice Courts, District Courts, and Federal Courts of Montana. My criminal law and procedure knowledge/experience is vast.

As a member of the JAG Officer in the Montana National Guard, I have experience advising on government-funded services. In this capacity, I have had experience with governmental entities, government contracts, and labor and employment issues. Through this affiliation, I have opportunities to receive continued legal education in similar areas of law.

4. Other Qualifications:

As a JAG Officer in the United States Army and Montana National Guard I will bring a unique aspect to the Town of Stevensville. Through my time in the military I have had the privilege of working with and leading a diverse group of Americans to meet numerous goals.

During my initial assignment as a Judge Advocate in the Montana Army National Guard, I served as a Legal Assistance Attorney within the Office of the Staff Judge Advocate. In that capacity, I coordinated and provided legal assistance services to Montana Army National Guard Soldiers and their families. It was my responsibility to ensure that Soldiers were advised and supported regarding various estate planning issues and rights under Servicemembers' Civil Relief Act. Finally, I worked with the State Staff Judge Advocate and other JAG officers to assist with the Legal Station for Soldier Readiness.

I have also worked as a Joint Operations Center Desk Officer. In this capacity, I managed Federal, State, and public related tasks in response to all levels of emergency. I coordinated with senior officers or field grade representatives of the Office of Secretary of Defense, combatant commands, and key federal agencies. It was also my responsibility to provide and incorporate reports / assessments on state civil support missions, current operations, situation reports, and daily executive summaries

5. Proposed Compensation.

\$80.00 / hour as an Independent Contractor.

- \$250.00 monthly payment for expenses to include:
 - o Additional Malpractice Insurance to cover increased caseload
 - o Lexus Nexus Research Software
 - o Printing, Mailing and Office Supply Expenses
- Training Expenses – Annual City Attorney Training through MMIA and Montana League of Cities and Towns.
- Mileage in accordance with the IRS mileage ratings.

This compensation format will allow the Town to save on benefits expected by a traditional employee while also assuring that Stevensville has a committed attorney who is dedicated and available at any time to assist the Town.

6. Description of Legal Services to be Provided:

1. I will review, draft, and negotiate contracts and leases.
2. I will advise on municipal legal issues.
3. I will advise on individual labor and employment matters.
4. I will review personnel, fiscal and other policies.
5. I will attend Town Council meetings as necessary.
6. I will advise on government grant and contract issues.
7. I will advise responses to subpoenas, court orders, and request for information from third parties.
8. I will defend lawsuits administrative claims, or other legal claims.
9. I will conduct litigation as necessary.
10. I will act as the city court’s prosecuting attorney.
11. I will perform other legal services as needed.

7. References and Contact Information:

Peter Elverum	City Attorney, East Helena, Montana	(406) 570-3755 peter@elverumlaw.com
Major Michael Talia	Montana Army National Guard Fort Harrison, Montana	(406) 324-3325 michael.p.talia.mil@mail.mil
Mathew Johnson	Attorney, Helena, Montana Former Jefferson County Attorney	(406) 603-0075 mathew@mtlegalcounsel.com

Item Attachment Documents:

- c. Discussion/Decision: Consent to the Mayor's Appointment of Robert Underwood as Finance Officer and approving compensation of \$21.00 per hour



Stevensville Town Council Meeting

Agenda Item Request

To Be Submitted BEFORE Noon on the Wednesday before the Council Meeting

Agenda Item Type:	New Business
Person Submitting the Agenda Item:	Brandon E. Dewey
Second Person Submitting the Agenda Item:	
Submitter Title:	Mayor
Submitter Phone:	
Submitter Email:	
Requested Council Meeting Date for Item:	7/1/2019
Agenda Topic:	Discussion/Decision: Consent to the Mayor's Appointment of Robert Underwood as Finance Officer and approving compensation of \$21.00 per hour
Backup Documents Attached?	Yes
If no, why not?	
Approved/Disapproved?	Approved
If Approved, Meeting Date for Consideration:	7/1/2019
Notes:	

Robert E Underwood
LTC US Army Retired, MBA
2599 Home Acres Rd
Stevensville, MT 59870
406-544-3570

June 18, 2019

Brandon Dewey
Mayor, Town of Stevensville
P.O. Box 30
Stevensville, MT 59870

Mayor Brandon Dewey,

It was great meeting you again last Friday. I am writing to express my interest in the position Finance Office for the Town of Stevensville. I have a Master's Degree in Business Administration for the University of Phoenix and I am an alumni of the University of Montana with a Bachelor's degree in Business Administration. I come from a solid technical background with a strong interest in business, learning and a passion towards accounting.

I enlisted in the Army as an Infantry paratrooper right out of high school and serviced 4 years before coming back to Missoula to the University to get my degree and commission through the ROTC program. I then went back on active duty as an Infantry officer until I retired in July 2015. During this time in the Army I spent years working as a Contract Officer, Pay Officer and Procurement Officer. I have managed organization with small budgets to ones with multi-million dollar budgets. I have also spent time working in government development and procurement on some of the most sensitive projects.

During my time in the Army, I worked as the Detachment Commander of the Improvised Explosive Device Task Force in Iraq where I worked with our nation's most sophisticated labs, developing technologies to defeat IEDs and keep our soldiers safe. I also spent 3 ½ years at Eastern Washington University in their ROTC program as both a recruiter and associate professor of military science. I worked as the operation officer (director) for the Army Ranger School, Mountain Phase, in Dahlonga GA. I was the head strategic planner for NATO's Joint Forces Command in Naples Italy. During my last assignment in the Army, I was responsible to updating and redesigning the curriculum for the Commander/First Sergeant Course and the Executive and Operations Officer Course. All my positions involved managing a budget and most involved contracting for equipment and services. I have worked in many positions which gave me experience in so many different areas and made me a very well rounded leader.

During the last 2 ½ years I worked at Doyle and Associates, a CPA accounting firm, on government audits (Schools, Counties and Cities) and on payroll for many different types of businesses in the Missoula County area. I enjoy learning and I'm a lifelong learner. I continue to take classes, in many different subjects, in pursuit of knowledge and personal growth. I believe my academic background, business knowledge, and accounting experience, both business and governmental, provides me with the credentials needed to thrive in this position.

I would appreciate the opportunity to interview for this position. Please find enclosed my application and resume for your review. I can be reached via email at underwoodre@hotmail.com or by phone at (406) 544-3570. I enthusiastically look forward to hearing from you soon. Thank you for your time and consideration.

Sincerely,



Robert E Underwood

ROBERT UNDERWOOD
2599 Home Acres Rd, Stevensville MT 59870
underwoodre@hotmail.com • Cell 406-544-3570

OPERATIONS EXECUTIVE / ACCOUNTANT

*Strategic and Operational Planning / Resource Allocation and Optimization / Problem Solving
Relationship management / Leadership and Staff Development / Training, Coaching and Mentoring*

Over 31 years of experience in operations management and strategic planning. Recognized in professional leadership, skilled in steering and directing all aspects of operations, planning, administration, and resourcing. Successful manager of multiple complex projects with competing priorities. Intuitive leader inspiring high productivity levels; repeated success leading sizable, cross-functional teams as well as training, coaching and motivating a staff. Ability to establish, develop, and maintain productive relationships with internal and external agencies. Strong interpersonal, communication, and presentation skills. Proficient in delivering comprehensive analysis and reports to drive organizational and operational improvements. Government procurement, purchasing, accounting and budgeting experience.

Operations Management Strengths:

- Strong organizational Skills
- Excellent Presentation Skills
- Process Redesign / Change management
- Standards and Procedures Compliance
- 120VC Project Management Trained
- Sustain Vendor and Staff Relations
- Excellent Communicator
- Master of Business Administration
- Top Secret Clearance
- Proficient in QuickBooks & Microsoft Office Software

PROFESSIONAL EXPERIENCE

Summary

Army Lieutenant Colonel (Retired) with over 38 months of combat/peacekeeping/humanitarian deployments and over 31 years of leadership, strategic planning, government relations and operations.

Accountant, Government Audits	22 Months	Dec 2016 to Present
U.S. Army, Infantry Lieutenant Colonel	31 Years	June 1984 to August 2015

Staff Accountant	Dec 2016 – Present
Doyle and Associates	Lolo, MT

Performed governmental audits for numerous school districts, cities, counties, irrigation districts and employee pension plans. Completed and filed payroll, payroll reports and reconciled related payroll benefits for the firm's payroll clients. Applied federal and state laws as appropriate to pay procedures; process electronic bank and tax deposit transfers; posted general ledger distribution; maintain leave accrual as well as sick time and personal time off; electronic transmitted standard reports; and assisted clients in automating their payroll procedures. Completed and filed, electronically and/or manually, all monthly, quarterly and annual payroll reports including, but not limited to: 941 Federal Tax Report, 940 Federal Unemployment Report, MTQ State Employers Quarterly Tax and Unemployment Insurance Withholding Report (UI5), Workers and Compensation Wage Report, W-2 reports and ensure that all reports were filed on time.

Deputy Director Training Guidance and Training Brief Program	Jan 2012 – Jul 2015
1 st Corps, U.S. Army	JBLM, WA

Responsible for drafting the 1st Corps Headquarters training guidance signed by the Core Commander and implemented in four regions; streamlining the training methodology and enabling evaluation of Army training practices in the Pacific Theater of Operation. Coordinated and synchronized I Corps rotations at the national

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Training Center, the Joint Readiness Training Center (JRTC) the Combat Maneuver Training Center (CMTC), the Mission Command Training Program (MCTP) and the Subordinate Brigade Command Battle Staff Training Program (BCTP). Developed and recommended training policy, objectives, scenario events, and prepares courses of action that enables Brigade Combat Teams to ensure readiness for unified land operations. Led diverse standing operational planning teams through the military decision making process to develop, coordinate and publish mission orders for major subordinate commands. Recognized for creating and implementing the first Semi-Annual Training Brief with five division-level headquarters in the Pacific region; ensuring that the 1st Corps Commander's Training Guidance was understood and then being followed. Redesignated the 1st Corps Executive Officers/Operation Officers Course and the Commander and 1st Sergeant (1SG) Course resulting in units in both Alaska and Hawaii asking to send their officers and senior non-commissioned officers to Joint Base Lewis-McChord to attend these classes along with the personal at JBLM.

Program Director of Administrative Services

Nov 2010-Dec 2011

Headquarters, NATO-led International Security Assistance Force

Afghanistan

Responsible for the effective utilization, supervision and direction of the Public Administration Section: elections, census, land issues and public administrative services for the Afghanistan Government. Developed command goals, objectives, and public administrative strategies in support of the Government of Afghanistan. Instrumental in establishing the Afghanistan Land Authority, securing a 3.4 Million dollar U.S Aid grant and bring in the Land Reform in Afghanistan Project (LARA) into Afghanistan. Worked closely with the United Nations Assistance Mission in Afghanistan (UNAMA) on issues of the Afghanistan census, voting rights and laws; and then planed for NATO security assistance operation during voting day activities. Connected update briefings every six week to General Petraeus, the commander of the International Security Assistance Force (ISAF) and Commander, U.S. Forces - Afghanistan (USFOR-A); Mark Sedwill, NATO Senior Civilian Representatives; and both Karl Eikenberry and Ryan Crocker, US Ambassadors to Afghanistan; on Afghan land dispute, Afghan Land Authority agency development and tribal land issues.

Advanced Planning Branch Head and Joint Operational Planning Group Leader

Jun 2008-Oct 2010

NATO Joint Forces Command – Naples

Naples, Italy

Hand pick by the commanding general over more senior officers to led the Allied Joint Force Commander's Joint Operational Planning Group (JOPG). Conducted cross-functional operational level staff coordination concerning NATO operation. Directly supervised the work efforts of 57 NATO and 7 Partnership Nations Officers during Operational and Crisis Response Planning. Lead the operational planning group in developing: Operation Ocean Shield, the NATO deployment of warships to protect maritime traffic in the Gulf of Aden and the Indian Ocean from Somali pirates, and help strengthen the navies and coast guards of regional states; NATO's support to the World Food Program, in turn delivering over 400,000 tons of food to Somalia and the NATO's crises response planning to evacuate USA, NATO and other Non-government personnel from Georgia during the Russia invaded in 2008.

Assistant professor of Military Science and Recruiting Officer

Apr 2005-May 2008

Eastern Washington University

Cheney WA

Established and executed strategies and processes that enhance marking and recruitment and facilitate enrollment and scholarship operations for the program. Primary instructor for the freshmen and sophomore level courses to include academic advising, counseling and mentoring. Managed the marking budget and effectively distributed monies towards recruiting campaign plans. Supervised and mentored subordinate recruiters, work study students and the Department of the Army Civilians. Managed the Cadet Activity Fund and sustained the university and community relations. The Army planned to close the Eastern Washington University Reserve Officers Training Corps program at the end of the 2005-2006 school year due to poor ROTC enrollment at the school. After working at the school only three months, I increased enrollment by over 100% and the decision was to shut down the program was tabled. During my 3 plus years at EWU, I exceeded all recruiting goals by at least 150% and expanded the program by opening two sub ROTC programs at two different Community Colleges. I received multiple accolades from the Western Region ROTC HQ and Washington Nation Guard for recruiting and enlisting over 100 + members in both organizations.

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Joint IED Defeat Task Force Field Team Commander
HQDA ODCS, G-3 IED Task Force

Mar 2004-Feb2005
Iraq

Commander of a forward deployed detachment in the Iraqi Theater of Operation for the Joint Improvised Explosive Device (IED) Defeat Task Force consisting of 36 personnel, eight vehicles and property in excess of \$10M. Responsible for the operational control, maintenance, accountability and resourcing the detachment headquarters and three field teams. Conducts planning pre-execution checks, and assists in the execution of the detachment's support to the Multinational Forces Iraq (MNF-I) and the Multinational Corps Iraq (MNC-I) counter IED operations missions. Plans, executes, and monitors the detachment's maintenance plan, command supply discipline program and the sourcing material requirements for the detachment.

Briefed Congressional leaders and their personnel on the situation in Iraq and improvises explosive devices (IEDs) on a weekly basis and according to the US Embassy, my briefing was the number one requested briefing by congressional representatives and other US Government personnel while in country.

I wrote the operational needs statement for the theater which lead to the further development and acquisition of the electronic countermeasures which dramatically drop the death and injury rate of US Forces caused by improvised explosive devices (IEDs). I was also instrumental in the decision process in upgrading the Up-Armored Humvee (armored wheeled vehicle) to the Mine-Resistant Ambush Protected vehicle (MRAP) which is used by all ground forces in Afghanistan and Iraq today.

Investigated and wrote reports on IEDs attacks which killed or injured US and coalitions soldiers. These report were requested by the US Government intelligence and security agencies, to include the Secret Service.

Operations Officer
5th Ranger Training Battalion

June 2002-Feb 2004
Dahlonge, GA

Plan, coordinate, and execute all training and training support for 200 cadre and 2500 Ranger students annually as a geographically separated battalion. Publish the long range training calendar and quarterly training guidance. Resource Ranger training to include aviation assets, ammunition, fuel, parachutes, medical support, transportation, and training areas. Oversee military mountaineering, 22 field training exercises, 20 airborne, and multiple air assault operations for 11 classes annually. Serve as the executive agent for the US Infantry Center Commander's prepotency for the Army military mountaineering. Coordinate all military and governmental agency training in the National Forest. Supervise and develop a staff of 4 captains and 12 non-commission officers.

I spent two years working closely with the Federal Aviation Agency to get first ever approved blackout (No Lights) flight training area for rotary wing aircraft in the county. This allowed pilots the train only using night vision devices, with no aviation lights on during flight.

I added to the curriculum of the phase, notably the addition of a 150 foot vertical night repel off Yonah Mountain in Georgia, in which all ranger students had to conduct successfully prior to moving to the next phase of training. Also added was close quarter combat live fire exercises which added real-world realism to the already hard training in U.S. Army Ranger School.

Battalion Operations Officer
2d Battalion, 357th, 4th Brigade, 91st Division

Jul 2001-Jun 2002
Fort Lewis, WA

Responsible for the planning, coordination, and execution of tactical lanes training and training assessment model evaluation of Army National Guard units in Alaska, California, Washington and Oregon. Server as the principle observer controller/trainer for battalion command and control operations. Ensures supported units receive combat training center quality training and after-action reviews during their training periods. Principle duties include the planning and coordination of all the battalion's internal and external training. Assists in planning pre and post mobilization training for Reserve Component units. Operations officer for the defense coordinating element in support of the military support to civil authorities within FEMA Region X.

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Team Chief of an Observer Controller/ Training Team
A Company, 2d Battalion, 357th, 4th Brigade, 91st Division

Apr 1999-Jun 2001

Provides training assistance and evaluations to reserve component mechanized and light infantry companies in a four state area. Coaches, mentors and trains leaders of supported units in warfighting doctrine, tactics, techniques, and procedures. Task organizes and leads organic observer controller trainers (OC/Ts) and attached OC/Ts for lanes training exercises. Provides training assistance and evaluation support to Training Support Detachments in the execution of situational training exercises, lead training, and gunnery during Inactive Duty Training periods. Prepares Training Assessment Model evaluations of infantry companies. Support mobilization operations and Military support to Civil Authorities.

Infantry Company Commander
2-22 Infantry

Feb 1997-Feb 1999
Fort Drum, NY

Commander of a Light Infantry Rifle Company with a mission to be ready for possible deployment worldwide within 96 hours of notification, fight upon arrival and win. Responsible for training, discipline, welfare, and morale of all assigned soldiers. Develop a unit capable of fighting and winning the small unit battle through decentralized execution and integration of all combat multipliers. Establish and maintain the fighting force by caring for our soldiers and families. Helping each of them achieve their full potential. Maintain all assigned and attached equipment in a combat-ready status. Train subordinate leaders to be tactically and technically proficient in all areas and continually develop them to assume increased responsibility and authority.

Assistant Operations Officer
Operations, HQ 10th Mountain Division Light

Jan 1996-Feb 1997
Fort Drum, NY

Monitors current operational situations and assists in coordinating all aspects of maneuver to ensure the effective utilization of combat, combat support and combat service support within the division. Tactically executes duties as battle captain of the division main command post. Plans and coordinates all division-level ceremonies and publication reviews. Prepares the command brief given to VIPs. Plans and coordinate all operational tasking in include Bosnia and Haiti. Monitors off deployments to include the multi-national force and observer's mission in the Sinai. Manages the division mission essential task list and revisions to the division tactical standard operating procedures. Additional duties include Operations Security Manager, representative on the Installation Treat Committee, and Operational Security Officer.

EDUCATION

Master's Degree in Business Administration (MBA) University of Phoenix	December 2011
Bachelors of Science in Business Administration University of Montana	June 1992
QuickBooks Basic and Payroll Classes Bitter Root College	February 2018
QuickBooks Certification Intuit Inc.	March 2019
Bookkeeper Certification National Bookkeepers Association	April 2019
2016 Microsoft Word and PowerPoint Specialist Certifications Microsoft Office	May/June 2019

References upon request