

**Troy City Council
Work Meeting
Council Chambers
November 11, 2010**

The meeting came to order at 5:30 pm. Present: Mayor Don Banning, Council: Phil Fisher, Loretta Jones, and Gary Rose, Fran McCully, and City Clerk Sandra Johnson.

GUESTS: Troy Police Department, Heather McDougall, Marilyn McDougall, Sharon Johnson, and Jim Slaven

ANIMAL CONTROL- Don Banning: There are three agreements that the County, Debbie's Pet Grooming, and KPFL have approved. Chief of Police Robert McLeod is ill so he will not be present tonight. Banning stated that McLeod will be sending out a notice to the newspaper and Job Service to fill the position.

PRESIDENT OF COUNCIL: When city hall employees and the Mayor were at the MLTC training in Butte and the clerk's daughter became ill. Phil Fisher was under the assumption that the President of the Council took over when the mayor is out of town, and that is not the case. The clerk called the City Clerk to be advised what to do. From Butte, Mayor Banning made the decision to close the office. Mayor Don Banning read aloud from the "Roles of Responsibility", noting that in 7-4-4403 and 7-3-220 MCA; the individual (President of Council) retains voting rights of a council member and does not assume any other responsibility of the Mayor. Heather McDougall asked Mayor Banning to read it again. Banning repeated. McDougall stated; that's during the meetings. Phil Fisher stated; according to Dan Clark, the Charter overrides the MCA. In the Charter, it doesn't state what you just read. It states that the President of Council will preside in the absence of the Mayor. Mayor Banning stated; yes, at a meeting. Phil Fisher reiterated; it doesn't state, at the meeting. Mayor Banning advised that the City Attorney will be here at the next regular council meeting to explain. Heather McDougall asked for the second reference 7-3-220. Gary Rose asked Banning; what happens if you are in an accident or something. Mayor Banning answered; that is covered in MCA too, within 5 days, the Council can elect or ask for interested people or one of their members, and then they interview and vote. Gary Rose asked; so they can call a special meeting to decide this. Banning stated; I'm not sure, but the position is until the next election. Heather McDougall stated but the Charter states in his absence, not just for meetings. McDougall brought up 7-3-220 stating this is for an alternative form of government, so it doesn't apply. McDougall continues; 7-4-4403 only states that the Council can elect a president and perform the duties as the Mayor. Banning answered; at the meeting. McDougall answered; it doesn't say that. Discussion followed. Mayor Banning stated to Heather McDougall to bring it up at the next meeting when the attorney is here. Mayor Banning stated; I'm not agreeing with you, nothing can be done tonight. Discussion followed. Loretta Jones suggests that when the city attorney is at the meeting, get him to put in black and white. Gary Rose stated; it doesn't say, at the meeting, so there is obviously a disagreement regarding the interpretation.

OVERTIME AUTHORIZATION: Mayor Don Banning stated that the administrative officer, is the person that authorizes overtime when a department head requests this. Discussion on when overtime was paid. Heather McDougall asked; why is this an issue. Banning replied; because someone was called out last Sunday by dispatch and the person in question did not volunteer for the tree day. Fran McCully stated, he wasn't called out for an issue, he was called out because he volunteered to get the Christmas lighting together. Loretta Jones stated; he didn't volunteer apparently. Don Banning stated; the reason he didn't volunteer, was because he was already scheduled for standby. McDougall stated; but if there is no money in the budget for overtime, then it can't be authorized. Mayor Banning stated; there is money in the budget for overtime. Heather McDougall reiterated; until it runs out. Mayor Banning stated; the same for everything else. Fran McCully asked; do we proceed with stringing the lights this weekend? Loretta Jones stated; probably not, it's too costly. She asked; are we going to have to pay overtime to get the lights

hooked back up? We can do the tree, but we can't get it hooked back up. We will go from there. Marilyn McDougall asked; can't the tree be hooked up during a regular work day? Discourteous comments from council and guests followed.

Mayor Banning stated; that concludes the agenda items. The following items were not discussed at the last regular council meeting, and will be on the agenda for the next regular council meeting dated Wednesday November 17, 2010.

Appointment of second member of police committee, Ordinance 510
8 hour work schedule
Follow-up on donations for park benches at soccer field
Indemnity for water feature

PUBLIC COMMENTS:

Loretta Jones stated; last council meeting we had comments that were rude and unnecessary and they were allowed to stand as stated. Jones continued; we did have training that advised everyone to compromise and there is no need for compromise because it takes two to have a discussion and to make a decision and at this time that is not what's happening. I don't know how this group can move forward or get anything accomplished.

Phil Fisher stated; we have a situation we need to take care of with the park host. He is a definite liability to the City. I'd like something on the agenda to discuss and have a vote on. We need to do something about it. Mayor Banning stated; I agree it is a bad situation; the papers are saying things that I haven't heard legally yet; he is innocent until proven guilty. We could suspend him, but he is in jail. Heather McDougall stated; when you have notice of something like that, you are increasing your liability. Phil Fisher continued; we are looking at some problems here because there is someone there that has access to his personal items. We are responsible for his property. We can be sued by him if they are stolen. Mayor Banning advised; the city crew is now doing the things the park host was responsible for. Phil Fisher showed concern that there are people going in and out of his trailer. Mayor Banning stated; I agree with everything you are saying. Gary Rose entered discussion on if he would be here to take care of his things. Mayor Banning stated that it will be on the agenda for the regular council meeting. I will try to find out more information as far as liability is concerned by the next council meeting.

Jim Slaven advised his concern as a parent and a concerned citizen that there are no lights at the elementary school. There should be a street light there to light up the area, but I feel that the school should have lights there as well. Mayor Banning agreed and stated; the street lights are the responsibility of the city. Mayor Banning will follow up.

Phil Fisher read a letter addressed to Mayor Banning signed by all four members of the Troy City Council, requesting that the council be informed of any deadlines associated with the hiring of a new City Attorney; expects an interview schedule and terms of any contract. The letter stated; *please be advised that the Charter states that the Mayor may appointed with the consent of the majority of the council, all department heads and shall execute contracts subject to the approval of the council. Therefore; we feel the council must be involved in the hiring of the City Attorney, and it requests that it be involved in the hiring process as well.* The letter also requested the alley resolution, Roberts Rules of Order resolution, 4th of July Ordinance, and Ordinance 510 to be placed on the agenda. Phil Fisher stated; I'm asking you right here and right now in front of public. This is the Troy City Code Book, is this law of the City of Troy. Phil Fisher stated; I've been instructed that this is the laws of the City of Troy. Phil Fisher read the code in which the order of business is taken at meetings. He pointed out that the claims from the last meeting were moved to the beginning instead of keeping them before public comment like the last nine months. It was stated that depending on the business in the agenda and depending on what council wanted to go first and what they wanted to move on; it has been changed throughout history. Phil Fisher stated; we were not even asked about the change, it was just changed. To me, order of business is by the code of Troy, it's a city law. Fran McCully stated; just for clarification, there are

laws in addition to the codes, but that wouldn't nullify laws that were in there (the code book) unless there is a specific ordinance that specifically nullified another one. It was explained that during codification, they come in and examine everything we have, and anything that doesn't stand within the State Constitution, will be taken out (for consideration). Everything else will be put in. The council will vote on those to be done to make the code book complete again. Fran McCully asked; how is that relevant to what Phil just said. When the codification we will vote on it, but in the mean time they are there, so they are the laws of the City. Mayor Banning stated; there's a whole vault full of Ordinances that are not in that code book. Everybody does not have an up to date codified code book. That was codified in 1985. Discussion followed. Phil Fisher asked why the order of business got changed to have the claims first. Mayor Banning stated; only because we were trying to keep all the discussion of ordinances together, we weren't trying to undermine you in any way. More discussion followed.

Gary Rose asked why the clerk's office hours changed to 4 days 10 hours a week. Mayor Banning answered; because they presented it to me with good reasons. I let them know that we would try it to see how it worked. It is working fine, with no overtime. Loretta Jones asked if Sandi Sullivan gets more hours this way. It was stated; no, she isn't on four 10s.

Fran McCully asked; did Clint Taylor request three hours overtime about the Christmas tree. Loretta Jones stated; well, I apologize, I didn't authorize any overtime. I didn't step over the lines, because I had no clue. Fran McCully added; and we made the call from dispatch because that was the fastest access to a telephone to find out if the power was on or off. I feel that he lead us to believe he was volunteering. Mayor Banning stated; as soon as he gets back, I'll ask him, but it was on his time card.

Heather McDougall stated; I presented my Ordinance two weeks before the Council meeting, and Maggie Anderson got to be on the agenda first. In my opinion, it should be on a first come first serve basis for agenda items. I feel the council meeting was manipulated because if you look at it, everything for the city complex went through number six and then everything that everyone else wanted was number seven on. Generally ordinances are not submitted by people coming in to a meeting, and it is reviewed by the council beforehand. There was nothing in that ordinance that was reviewed by council. You have to have an opportunity for everyone to do it and give the people an opportunity. Heather McDougall asked; was it on the agenda? Mayor Banning answered; was it talked about, yes. Heather McDougall why couldn't have I been on it first, when I asked about it two weeks before everybody else. The Council are the folks that put out the Resolutions and Ordinances. Discussion followed. Fran McCully asked McDougall if she had the Chamber request to form an Ordinance, because we have what we want on the agenda. Heather McDougall answered; the revised one, yes. McCully stated; we will need it then. Fran McCully reiterated; to start the process then.

Phil Fisher stated; we were told that the council cannot request a special meeting and we were told no, that you the mayor was the only one that could call a special meeting. According to the code book; "a special meeting can be called on reasonable notice in writing by the clerk to all members of the council, when ordered by the mayor or any two members of the council, but the reason for the special meeting must be set forth in the call for the same, and preserved in the minutes of the special meeting." Mayor Banning stated; I'm not sure which Montana codes you are referring to. Phil Fisher stated; it's in the Troy City Codes. Fran McCully stated; it's there. Mayor Banning stated; okay. Discussion followed.

Guest: All the ordinances that are locked in the vault, are those public information? Banning answered; yes. She asked; is there a public place that I could look at them? Mayor Banning answered; only if you come into city hall. Discussion followed.

There was discussion in disagreement of the MCA being the law versus a guideline like the Local Government Center said during training. Gary Rose stated; unless the Charter violates the MCA it is the law. Much discussion followed.

Fran McCully brought up the Christmas tree issue because of the three hours of overtime wages. She stated; the person that was going to climb the tree and sit up there for four hours replacing the lights would not take any money for it, and we called out a city employee in when we thought he was a volunteer, and the city is being charged three hours of time and a half of lineman's wages, when the guy up in the tree was going to do it for nothing. Mayor Banning stated; I was under the impression that the tree climber was getting \$200 for it. Loretta Jones answered; well, that's what I requested, but when I told him, he didn't want it, but I personally gave him a gift certificate for \$50. Mayor Banning stated the employee will be back next week, so I can ask him. Loretta Jones stated; well, apparently he turned it in, so he didn't feel like a volunteer. Marilyn McDougall stated; well, doesn't any overtime have to be approved by council anyway? Loretta Jones answered; that is why it's on this agenda, I think the Mayor thought I approved overtime. Mayor Banning stated; no, I was told that he got called out by dispatch. Loretta Jones stated; he was. Fran McCully added; dispatch was just the closest phone. Discussion followed.

Mayor Banning adjourned the meeting at 6:33 p.m.

Donald C. Banning, Mayor

ATTEST:

Sandra Johnson, Clerk