

**Troy City Special Work Meeting  
Council Chambers  
May 23, 2011  
6:30 pm**

The meeting came to order at 6:30 pm. Present: Mayor Banning, Council: Phil Fisher, Gary Rose, John Clogston, City and City Clerk Sandra Johnson. Fran McCully was absent.

**GUESTS:** Linda Rose, Janine Price, John Brown, Joe Arts, Dennis Dupuis, Robert McLeod, Heather McDougall, Herb Gregory, Clint Taylor, Susie Taylor, Tracy Rebo, Ron Rebo, and Sandi Sullivan

**RESOLUTION No. 633 - REQUIRING ALL POLICIES BE GIVEN TO COUNCIL:** Fran McCully stated; that she is happy with the Resolution because she would like to see City Policies. Mayor Banning asked City Attorney Evans if he had had a discussion with Mr. Fisher regarding this resolution. Evans replied. This particular one, I don't think so, I've never seen it. It was part of a previous resolution, but by itself, it is new. Evans continued; when I saw the policies, they were in a thick book of a few hundred pages. The Mayor has made it clear to me that those policies are available for council to view any time they want. It seems to me an unreasonable and waste of time to copy several hundred pages for each member of the Council. Fran McCully stated; I have no problem with not getting copies, I have no problem with having to come into the Judge's Chambers to look at them like we did before. The only problem is that for 18 months we have requested to see policies, and we haven't seen them. So the issue is being able to see them. I don't think we would be unreasonable and say we want 700 pages. We just want availability to the policies. Evans stated; apparently there hasn't been a clear understanding with Council to do this. Evans asked Banning if this would be okay. Banning replied; yes, they have always been there. Banning stated; they don't leave City Hall, but they can sit there at a desk. Fran McCully stated; we have come to the Judge's Chambers around his schedule before. Mayor Banning stated; they have had the policies before. Fran McCully stated; no, we've had Resolutions and Ordinances. Discussion followed. Evans asked Banning; those policies are available now. Mayor Banning replied, yes. John Clogston stated; I have a police policy manual at home that I got from City Hall. Phil Fisher stated; I would like to reiterate; we do not take anything from the City Hall and give it to the Public. Heather McDougall asked Evans; is this how the meetings are to be run, with no public comments until the end. Evans replied; I haven't attended a work meeting here before so I don't know what policy the council has. McDougall stated; well I think the council should get a copy, because just like that green book of Troy City Codes, it wouldn't have been given to them unless it was given by somebody else. Evans replied; if the Council has expressed approval with what the Mayor has proposed, then I don't know why anyone in the audience would argue against that. McDougall stated; well, it's an idea that they never thought of. Evans replied; then that is something that should be discussed at another time. Fran McCully stated, I do not want to back off on this due to past practices. I personally want to go with the resolution. Mayor Banning stated; you will be given the policy book, but if you want copies of those, you can make them on your own. We are not going to stop what we are doing to make copies of all the policies. Gary Rose suggested making one copy that can be taken out at any time. Evans stated his recommendation of tabling the Resolution until they have had a chance to review the policy manual to see if they need it. Phil Fisher stated; when there is only one copy for all of us to review, then it is a quorum and we have to post a meeting. Discussion on meetings followed. Evans stated; it may be better if only two of you would review them at a time. Discussion followed.

**RESOLUTION No. 634 - ESTABLISHING QUARTERLY NEWSLETTERS REGARDING COUNCIL MATTERS:** Phil Fisher stated; I feel it is beneficial to the Council to be able to have a newsletter to give to the citizens of Troy; to let them know what we have been doing and what accomplishments we have made since we've been here. Charles Evans stated; Mayor you have indicated to me that the Council is free to submit additions to the regular newsletter that the City

puts out. Mayor Banning replied; that's always been the way it is. When the clerks prepare it, they ask the department heads and the Council they have anything they want to add to it. Evans replied; if that were the case, you could submit whatever type of information you wanted to, to the Mayor or the City Clerk to put in the newsletter. Evans asked the Council if that would be acceptable instead of having two separate newsletters. Fran McCully replied; we've been here 18 months and the occasion hasn't come about. McCully continued; we would like to do a news letter, and we feel this is a simple way for the council to be able to do it. We want to be guaranteed that we can have input and do a newsletter. Mayor Banning replied to Evans; they always have had the opportunity. We've only had two. The spring newsletter is in the process, if you would like something on it, bring it in, we would like to do it before the end of the month. Discussion followed. Evans stated; I don't think they are saying they have been denied; they haven't been contacted and given the opportunity. Phil Fisher agreed. Evans asked the Mayor; is that something you would be willing to do, to contact the Council. Mayor Banning replied; sure, that's always been a policy to do that and when the newsletter is prepared, I look at it and approve it.

**RESOLUTION No. 635 - CLARIFYING THE PROCEDURE WHEN THE MAYOR IS NOT PHYSICALLY LOCATED IN THE CITY LIMITS FOR MORE THAN 24 HOURS:**

Phil Fisher stated; I feel it is important that if the Mayor is going to be out of town for more than 24 hours, we should be notified. There should be another person in the City of Troy, on the Council, that would be responsible if something does come about that needs to be taken care of. A telephone call does not resolve a situation that can be here. Evans asked the Mayor if he felt comfortable giving the Council advance notice if you're going to be out of town. Banning answered; sure, but on this Resolution it says, *whereas the City of Troy was in confusion when the mayor attended a recent conference.* I don't recall the city being in a state of confusion. I knew exactly what was happening from the start and we took care of it. If there was confusion, it wasn't on the part of the administration. Discussion followed. Gary Rose asked the Mayor why he would you object to this. Mayor Banning answered; what would the President of Council do. Gary Rose gave an example where the mayor would be unable to be contacted. Banning stated; I think Montana Code takes care of that. Fran McCully asked; what is the procedure for chain of command. Banning replied. If I get killed, you guys elect a new mayor. Gary Rose asked; but in the mean time, we have a president of council. Mayor Banning stated; there isn't anything that says the Mayor has to be present during the day. It is a volunteer position with no pay. I'm here during the day because I want to know what is going on. John Clogston brought up an example of a serious accident that may occur when the mayor is out of town. He stated; we need someone in authority to start the procedures that it takes. Evans stated; I believe there is a Statute that addresses that. If the Mayor is absent, the president of council would assume the duties of the Mayor; however, that statute was passed in 1911. It is a different now with mobile phones and technology to communicate with. I think the important thing is; if the mayor is unable to fulfill his duties; if he is able to communicate with the clerk, he is fulfilling his duties, whereas, you bring up the situation where he is not able to do that. Then, I think it is appropriate for the president of the council to step in. Fran McCully again brought up the circumstances of the last time the Mayor was out of town when the utility clerk had a family emergency and couldn't open the office. She stated that the head of the electric department stepped in, and had he been paid, it would involve high wages for overtime hours. Mayor Banning replied just because I'm out of town doesn't mean it can't be taken care of by a phone call. Evans stated; one modification would be for the council to consider is that if the Mayor is out of town and unable to perform his duties. If he is in contact with his department, then it seems he would be taking care of his duties. Discussion followed regarding the definition of absent. Phil Fisher stated; according to former council members; they stated, that when the Mayor left town, the president of the council was given notice to make sure to take care of anything that arises. It is a policy, but not written. We were told this by a council member that had been on council for 12 years. Phil Fisher reiterated; in the MCA 7- 4 - 4403 regarding the absence of the mayor, the president of council may perform the duties of the mayor. Phil Fisher asked; what is absence. Charles Evans gave an example that he wouldn't consider himself absent as long as he is conducting business. Discussion followed. John Clogston brought up what the military would do in a case of absence. Herb Gregory, a former

Navel Chief, gave an example of being away from his post but not considered absent because he could still conduct business. Fran McCully stated; well, we need a procedure.

**RESOLUTION No. 636 - REQUIRING LOG BOOKS BE KEPT BY POLICE DEPARTMENT:**

Phil Fisher stated; in light of situations that have risen in Troy; if there were log books for every officer; it would help in the defense of the officer, it would be all black and white. Log books have a big weight in a court of law. Chief of Police, Robert McLeod, asked if it was different from the CAD System that dispatchers log on the officers anyway. Phil Fisher and Fran McCully said yes. Gary Rose and John Clogston stated; It would be a personal log. Robert McLeod replied; we've already discussed it in our safety meeting and would be willing to do whatever you guys want us to. Mayor Banning stated; looking through the ordinances, I found an article under the police procedures that states there should be a log kept by each officer. Discussion followed regarding the prior chief doing away with the log books after the CAD system was put on line.

**RESOLUTION No. 637 - ESTABLISHING EIGHT HOUR WORK DAYS FOR HOURLY EMPLOYEES:**

Gary Rose asked how employees got to 10 hour work days to begin with. Mayor Banning explained that in 2009 it was presented to the prior Mayor by a council member overseeing the Public Works and Electrical departments. The issue was tabled at the time. Mayor Banning recalls it being an administrative decision by the Mayor that didn't require council approval. Fran McCully presented an email from Jim Hammons, which stated; the 10 hour shifts were for the summer months of 2008 until Thanksgiving, then return to 8 hours. Discussion followed. Banning stated; they would never have gone on 10 hour shifts unless the Mayor approved it. Fran McCully stated that she had previously requested they keep some kind of log that shows the call outs between the hour differences of 8 hour shifts to 10 hour shifts. She gave an example of windshield time, and stated that she couldn't see the savings. Discussion followed. Charles Evans stated that in the union agreement it states 8 hours 5 days a week. It also allows for modifications; but I believe the modifications require signing by the Union President as well as the City. If that hasn't been done, what we have is an informal agreement between the former mayor and the employees. It is not consistent with a union agreement. Mayor Banning stated; in the last conversation I had with the representative for the union; he said he had a letter of informal agreement that the employees were allowed to work a 10 hour shift as long as there was complete coverage for the week. Gary Rose brought up that it is 8 hours a week in the personnel policy and in order to change that, you need council approval. Clint Taylor stated; in the personnel policy it states that it recognizes the collective bargaining agreement. Also, in the union contract it states adjusting start time by mutual agreement between the union and the employer. Charles Evans read aloud the union agreement phrase in question that stated; this agreement may be modified at any time by mutual consent of parties of this agreement. Gary Rose again brought up that you can't change the personnel policy without approval of the council. Taylor replied; the personnel policy recognizes the union's collective bargaining agreement. Fran McCully stated; but we negotiate that every two years and it hasn't been done yet. Herb Gregory asked if they are more productive in the 10 hour period and asked if there had been productivity a study. Heather McDougall stated; a contract can only be modified with consent of the council, so if this union contract is going to be modified, you are going to need consent of the council. She stated; productivity is different than coverage and I would much rather have productivity rather than coverage. Mayor Banning stated; it is difficult to do a productivity study, when there are so many different routine tasks that have to be set aside for tasks that need done right away or in emergencies. Fran McCully asked how many service calls come in during the first hour and after 5 pm that would gain on the service part of it and not the productivity part. Clint Taylor advised that if it is before or after office hours, dispatch would have it logged. He also keeps a record at the shop. Discussion followed. Robert McLeod asked how the resolution would affect the Police Department. Phil Fisher answered; you are already on 8 hour days. McLeod replied; no, we are on-call for 12's. We work 8 and cover 4 every day. Phil asked; what do you mean you cover 4. Mayor Banning answered; they are on standby for 4. Phil Fisher asked McLeod; are you getting paid for standby. McLeod answered; no. Phil Fisher replied; then you are getting paid 8 hour days.

**RESOLUTION No. 638 - ESTABLISHING PROCEDURES TO TRANSFER FUNDS WITHIN ACCOUNTS IN A FUND:**

Fran McCully stated; I came in and asked how money can be transferred within an account. She used office supplies for an example and said; if it is office supplies from one, it can be adjusted to office supplies for the other; but if it was not at all similar, there can't be an adjustment. Phil Fisher stated; the thing I see in that issue is the construction money in the park and we paid a lease agreement for railroad and insurance for the walking path with it. To me, that has nothing to do with construction in the park. I feel that money should not come out of a construction fund of another item. I thought we had a grant for this agreement. Mayor Banning stated; the lease and the insurance doesn't come out of the grant funds. It was paid out of the park fund because the path connects to the park. It still comes out of General Fund; in that aspect, where would you have it put. Fran McCully stated; it just seems like it would have been a good discussion to have and seems like it was arbitrarily taken out of construction at the park. It was stated it is never arbitrarily done. McCully added; if we exceed line items in the budget, it seems like that would be a good opportunity to come back and have council look at it and review. I know County does it that way. There was \$10,000 in the budget for construction. \$5,000 was for the water feature and \$5,000 for other construction. Discussion followed regarding the BNSF lease followed.

**TROY CITY COUNCIL RULES OF PROCEDURE:** Mayor Banning stated; this was put in your packet so you would have a copy to study. We will bring it up for adoption by the council at a later date.

**PUBLIC COMMENTS:**

*Herb Gregory* updated the VFW's project in the park and invited everyone to the memorial ceremony and dedication at the Park on Monday May 30<sup>th</sup>, at 12:30 p.m. John Brown let it be known that the Jr. Girls Auxiliary club donated \$400 of their hard earned money to purchase one of the benches. Don Banning stated; I've traveled around the State and seen other memorial dedications to the veterans in other cities. This is good for Troy, and a good choice location.

*Fran McCully* stated to the Mayor; I understand that you went and did a presentation at the Business and Professional Men's Club, and you spoke about the Council there, is that right. Mayor Banning replied; I don't remember. I just answered questions. Phil Fisher asked; you didn't say that the council doesn't understand the laws. Banning replied; not to my knowledge, I don't do that at public meetings. Fran McCully stated; we've been told by three different people the exact same wording. Banning stated; I don't recall doing that. Phil Fisher stated; then we ask you, that at any other public meetings, you don't speak bad of the Council, because we don't do that to you. Banning replied. I did not speak bad about the Council. I was invited down there by the president of the club. He asked me to say a few things about the City and answer questions, and that is what I did. I talked about the parks and the flags being donated by the VFW. I don't remember talking about the City Council.

**ADJOURNMENT:** meeting adjourned 7:55 p.m.

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Donald C. Banning, Mayor

ATTEST:

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Sandra Johnson, City Clerk/Treasurer