



CITY OF BURTON
BURTON CITY COUNCIL MEETING
DECEMBER 4, 2017
MINUTES

Council Chambers

Regular Meeting

7:00 PM

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Steven Heffner at 7:20 PM.

A. INVOCATION LED BY: STEVE HEFFNER

B. THE PLEDGE OF ALLEGIANCE IS LED BY: STEVE HEFFNER

C. ROLL CALL

Attendee Name	Title	Status	Arrived
Tom Martinbianco	Councilman	Present	
Duane Haskins	Councilman	Present	
Steven Heffner	President	Present	
Christina Conley	Councilwoman	Present	
Danny Wells	Councilman	Present	
Dennis O'Keefe	Councilman	Present	
Vaughn Smith	Councilman	Present	

D. STAFF PRESENT

Paula Zelenko, Mayor	Sue Warren, Human Resources
Bob Slattery, DPW Director	Charles Abbey, Deputy DPW Director
Amber Abbey, Planning/Zoning	Amanda Doyle, City Attorney
Kirk Wilkinson, Asst. Fire Chief	Tom Osterholzer, Police Chief
John Owens, Lieutenant	Mike Odette, Lieutenant
Brian Warden, Lieutenant	Charles Iddins, Sergeant

E. APPROVAL OF MINUTES

1. City Council - Regular Meeting - Oct 16, 2017 7:00 PM

RESULT:	ACCEPTED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Haskins, Heffner, Conley, Wells, O'Keefe, Smith

F. ADMINISTRATIVE REPORTS

Mayor Zelenko stated in regards to the MERS lump sum payment, you approved a budget amendment to use \$24,000 of that for the Deputy Clerk's position with the understanding that we would replace this amount when it came time to make this payment.

Item #5 is the Budget amendment to replace that \$24,000. If you approve that item then

item #6 would need to be amended.

Attorney Doyle and Mrs. Abbey will address your concerns on Item #7 as well as some of the ordinance readings we have tonight. Charles Abbey and Drain Commissioner Wright is here to address concerns on Item #8 and they will give you an update on our new water treatment plant.

I would request that the tabled item regarding the rate study be taken up at the December 18th Council meeting. If there is any additional information anyone needs, please let me know.

In addition, you have received the new employment agreement for Ms. Warren, Human Resource/Labor Relations Director. The only changes from last year's agreement are the dates that the agreement covers; January 1, 2018 through December 31, 2018.

Attorney Leadford is here and we are requesting a closed session as allowed under the OMA Section 8a, c, e, and h. (a. Charges, complaints, suspension, dismissal, evaluation of a public officer, employee, staff member; c. negotiation strategy collective bargaining; e. consultation settlement, litigation strategy, and h. consider exempt materials such as written attorney opinion).

Every year we receive properties from the Genesee County Treasurer that did not sell at the county auctions. We are under a narrow timeline to evaluate the properties and let the County Treasurer know if there are any properties that we do not want to revert to the City. The building inspector and assessor's office are in the process of conducting their inspections and evaluations. If there are any properties that we recommend be rejected, we will have them on your December 18, 2017 meeting agenda.

In regards to the annual audit workshop, December 19th at 5:30 PM will work for Ginger and me. At that same time, Ginger would like to give the mid-year financial review for this current budget year.

The Master Plan Open House is next Tuesday, December 12th at 5 PM.

Lastly, a package of bills was introduced in the Michigan Senate and in the House of Representatives to address municipal pension and OPEB unfunded liabilities. These bill are on a fast track to be taken up before the year ends. The first committee hearing is scheduled for tomorrow morning. I have not had the opportunity to read all 16 bills, but what I have read, is not in the recommendations of the Governor's Task Force.

Language in these bills could force us to close our DB plans to new hires, thus eliminating the opportunity to utilize a hybrid plan. In addition, these bills propose further restricting collective bargaining and local government home rule. They make changes to PA#345 which allows the levying of taxes for public safety pensions, and the elimination of bonding provisions for closed plans. One of the bills opens up PA#436, the Emergency Manager Law to add a new provision for an emergency manager team to be appointed to a local government to find agreement on a solution/corrective plan. Another concern is language that mandates the pre-funding of retiree health benefits within a 5 year phase-in period.

The task force was very clear that no cookie cutter solution is going to address the problem and that for the best results, local government and collective bargaining units must be at the table in finding resolutions.

The only time the public can be recognized for comment is during the committee process and testimony must be in writing. I am working on such testimony and plan to attend the

committee meetings.

Genesee County Drain Commissioner Jeff Wright stated, a week ago we started supplying our own treated water into the distribution system. We have experienced 14 years of double rate increases from our last supplier in the City of Detroit. We are now with KWA (Karegnondi Water Authority). Our new water treatment plant is a 32 acre ponding area that holds a 14 day supply of water. The treatment plant itself was approximately 72 Million Dollars to construct. It and the site work came in on time and under budget by \$8 Million. Spence Brothers out of the Saginaw, Midland, and Bay City area were the general contractors and they hired many local contractors and used most of the suppliers from our area. This facility has the ability of pumping up to 85 million gallons a day. We currently, on a hot summer day, utilize around 22 million gallons throughout Genesee County. Burton is one of the 17 water customers that we have. We now have treated water which is competitive with anyone in the State. Because of the Flint water crisis, we have went above and beyond any State and Federal Regulations when it comes to trained personnel and the testing procedures to confirm that the water we are putting out is of the highest quality possible. This will put an end to the double digit rate increases that we have been paying and our children and grandchildren will have the lowest water rates in the Great Lakes Region.

Mr. Smith asked if the north end of the county is online now and were there any grants for this. Also, what is the increase of \$3.98 for?

Mayor Zelenko said the \$3.98 is the Readiness To Serve charge on all active domestic meters, water accounts.

Mr. Wright replied, as of last week Davison Twp., Richfield Twp., Genesee Twp., Mt. Morris Twp., Flushing Twp., City of Flushing, Clio and Vienna are online. Burton should be online next week. The total cost on the 42" pipeline down Potter Road was \$18 Million. Just the construction cost was \$14 Million. We did receive a grant through the State of Michigan for 7.5 Million toward the construction of this pipeline. Our ability to hold our costs down are great. Electric costs and chemical costs will be the driving factor in whatever rate increases we need in the future. I don't anticipate any capitol cost for the Karegnondi or the treatment plant for many years to come.

Mr. Wells asked how many new inquiries from new businesses and companies have you had that want to make a new home in Genesee County and what are they looking for?

Mr. Wright said we have had many inquiries from companies. Some of them have been in Burton. They look at tax abatements and how easy it is to get zoning changed. These businesses use a lot of water and create a lot of waste water. Our community has the waste water treatment plants capable of dealing with that. Most communities don't. This gives us an edge up over many communities. New businesses also look at locations with expressways, railroad, airports, etc. If we are weak in any area I think it would be in our education process. We are not training our folks in the fields that the businesses want them trained in.

G. COMMITTEE REPORTS

Mr. Smith said I contacted Plante Moran on our audit. The dates they gave me were December 19, 2017 at 5:30 PM. I am asking everyone to pay particular attention to Pages 7, 10, 53 and 64. This touches on our cash flow, water, MERS, etc. We are making progress on our pension but losing ground on our health care. Police retire at 50-55 years old and Teamsters retire at 60, they are still at least 5 years from getting anything from Medicare. How does a family cover that? That's what is being wrestled with in Lansing. I don't want to rely on Lansing to fix our problems, this should be done at the local level.

This has been brewing for many years.

Mr. Heffner said for the new committee appointments for the 2017-2019 Council are as follows:

Planning Commission - Vaughn Smith
Zoning Board of Appeals - Christina Conley
Central Communications Consortium (911) - Dennis O'Keefe
Finance Committee - Vaughn Smith as Chair, Duane Haskins and Tom Martinbianco
Legislative Committee - Tom Martinbianco as Chair, Dennis O'Keefe and Danny Wells
Metropolitan Alliance - Danny Wells and Tom Martinbianco as Alternate
Solid Waste and Recycling - Danny Wells and Christina Conley
Burton Library Committee - Christina Conley
Park and Recreation - Christina Conley
Public Access Committee - Vaughn Smith as Chair, Danny Wells and Christina Conley
Less Energy Dependence Committee - Danny Wells as Chair, Dennis O'Keefe and Vaughn Smith

H. AUDIENCE PARTICIPATION

Paul Wagner of Incredible Lawnsapes in Burton said my concern is for certain local community with trucks and trailers and we do not have a zoning place for us to operate our business. We do not have zoning that states businesses can have a panel van, truck or trailer that you can park on an approved surface at your place of business. I am trying to get this addressed so that each business doesn't have to come before you and pay variances to be able to run their business in a business district.

Rick Fuhst of Burton spoke regarding the water rate. If Council doesn't pass these funds through how will we be able to make repairs? You can't run a City without money.

I. COUNCIL DISCUSSION

Mr. Smith said he would like to add to the agenda, #9.

Mr. Wells said he would like to remove Item #6 from the agenda until we have a Council of the Whole meeting. When we passed the Police Millage, we all had visions of taking care of the Pension Fund. We are down to 36 Police Officers. We are budgeted for 40. When the millage was at 4.66 and you took the .66 off and kept it at 4 mills, it removed an opportunity for the Mayor to keep the Police Officers at 40. We have 7 more officers leaving, which will put us at 29 officers.

Mr. Smith said 36 officers is what was promised.

Mayor Zelenko stated we are budgeted for 40 officers, but if I budget for 40 now that the general operating has been cut it's not going to be sustainable. I have chosen not to hire to 40 at this point, until we decide what we are going to do. With the 5-Year Forecast you need that General Fund Balance in order to transfer to supplement the Police Fund.

Mr. Wells said it would be nice to pay on the Pension Fund, but it didn't go broke overnight and we aren't going to fix it overnight. I would like to take some of that money and build our Police Department back up and maybe put some of it toward our Water Department. We need to look at what's going on in the world today and make rational decisions.

Mr. Haskins said we are trying to take care of the Pension system that is failing. Our Police Officers had an arbitrary run where they were going to be paying 22% into their pension. If this City didn't step up and help tackle the pension costs, we wouldn't have one Police Officer because they would be paying over 30% into their pension out of their paycheck. If

we could spend that million dollars anyway else and bring more Police and Firefighters on I would support it 100%. This MERS Pension System has cramped the City terrible.

Mr. O'Keefe said we are 3/4 of the way through this budget year and there isn't a whole lot we can do right now. In the 5-Year Forecast there are two scenarios. There is the original general tax rate of 4.707% and the 4% that's been passed by the Council for the last two years. With the 4%, we are going to be in violation of our fund balance. If we don't increase that mileage rate back to where it was years ago, we going to have severe problems.

Mayor Zelenko stated when we did the Police Mileage, those promises were made were based on the General Operating staying at 4.707%.

Mr. Heffner said we need new revenue in our City, new businesses.

1. Motion to go into executive session as allowed under the OMA Section 8 a, c, e and h. after Council action.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Tom Martinbianco, Councilman
AYES:	Martinbianco, Haskins, Heffner, Conley, Wells, O'Keefe, Smith

2. Motion for the Health Care Opt Out option.

Mr. Haskins said I have said every year since this Act has been instituted I believe that health care should be a mandatory right to bargain. It used to be until the State stepped with a law, just like they are getting ready to step in with pensions. They are overstepping their bounds. If this Council Opts Out, the City still does not lose its revenue sharing because it's one of the options you have by the State under law. It should not be forced upon the employees.

RESULT:	FAILED [2 TO 5]
MOVER:	Duane Haskins, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Haskins, Conley
NAYS:	Martinbianco, Heffner, Wells, O'Keefe, Smith

3. Motion to table Item #8, Approve and authorize the City Treasurer to pay MERS a lump sum of \$976,000.00 via wire transfer by 12/31/2017 to be applied to the unfunded liability of the City of Burton.

Vaughn Smith stated at the last meeting I requested the water fund. What was the portion yearly of our water fund going towards service and bonds and how much of it was depreciation and how much was left unencumbered. What do we have that's not being spoken for? The reason I ask for this is that I am wondering if we really need to pass this on to the residents. I need this information before I vote.

RESULT:	FAILED [6 TO 1]
MOVER:	Danny Wells, Vaughn Smith
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Heffner, Conley, Wells, O'Keefe, Smith
NAYS:	Haskins

4. COUNCIL ACTION

1. Approve and Authorize the Attorney Billing (A. Doyle) 11-15-17 to 11-28-17 in the amount of \$4,935.50.

RESULT:	CARRIED [6 TO 1]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Haskins, Heffner, Conley, O'Keefe, Smith
NAYS:	Wells

2. Approve and authorize the Amy Street Capital Projects Shortfall Elimination Plan.

Mr. Wells asked for the elimination plan. Can I get an update on this?

Mrs. Burke-Miller stated rather than borrow the money from an outside source because of the small amount of the project, the City chose to borrow the money from the Sewer Fund. Thereby not being able to have revenues and outside source of revenues come in so the capitol project fund had a deficit. The State of Michigan understands why the City took that action and why we have this and that we will continue to have this. So there is a shortfall currently of \$146,885.09. The solution is that the City will be collecting assessments from the Amy Street residents over a term of 15 years. The assessment will end in the year 2028.

RESULT:	CARRIED [6 TO 1]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Tom Martinbianco, Councilman
AYES:	Martinbianco, Haskins, Heffner, Conley, O'Keefe, Smith
NAYS:	Wells

3. Approve and authorize the attached Corrective Action Plan regarding budget variances.

RESULT:	CARRIED [6 TO 1]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, Heffner, Conley, O'Keefe, Smith
NAYS:	Wells

4. Approve and authorize the "Hard Cap" Resolution 2017-__ regarding the cost sharing model set forth in State of Michigan Public Act 152 of 2011. (Choose "opt out" or "hard cap" or "80/20").

Motion was made to Approve and authorize the Hard Cap Resolution regarding the cost sharing model set forth in State of Michigan Public Act 152 of 2011.

RESULT:	CARRIED [5 TO 2]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Heffner, Wells, O'Keefe, Smith
NAYS:	Haskins, Conley

5. Budget Amendment (Budget #1991-1992) Approve and authorize the following 2017-2018 budget amendment: Decrease (1001-0000-390.0000 Unappropriated Surplus) by \$24,000.00 ; Increase (1001-2065-956.0401 Payment on Pension UAL) by \$24,000.

Mr. Haskins said the Mayor didn't follow our budget recommendations and didn't do a layoff. So then the money had to get moved and it is held out of the MERS to pay for the position that we eliminated in the Clerk's Office. It has nothing to do with contract.

Mr. Wells asked how long we will have to pay the Clerk's that are on administrated leave.

Sue stated it will be coming up in closed session.

Mr. Heffner stated \$24,000 will not make or break the Pension but might do a lot to help the General Fund. If this is voted down we will be putting \$976,000 towards MERS.

RESULT:	FAILED [3 TO 4]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Tom Martinbianco, Councilman
AYES:	Martinbianco, O'Keefe, Smith
NAYS:	Haskins, Heffner, Conley, Wells

6. Approve and authorize the City Treasurer to pay MERS a lump sum of \$976,000.00 via wire transfer by 12/31/2017 to be applied to the unfunded liability of the City of Burton.

RESULT:	CARRIED [6 TO 1]
MOVER:	Vaughn Smith, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Haskins, Heffner, Conley, O'Keefe, Smith
NAYS:	Wells

7. Approve and Authorize an addition to the fee book for the Commercial Medical Marijuana Transaction Facilities fee as follows: Application fee in the amount \$50.00 / Annual License Fee in the amount of \$5,000 / Renewal License Fee in the amount of \$4,000 / Renewal Late Fee in the amount of \$500

RESULT:	CARRIED [6 TO 1]
MOVER:	Duane Haskins, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Haskins, Heffner, Conley, O'Keefe, Smith
NAYS:	Wells

8. 3310 : Resolution to adjust the City of Burton's water use charges in accordance with pass through.

Mr. Martinbianco stated I would like to bifurcate that resolution into a part A and part B. This would give an opportunity to have the commodity charge increase and not the readiness to serve charge and will also give an opportunity to voice an opinion on this. I would like it to read:

#8 (a). Approve and authorize the Treasurer to adjust the city of Burton's water usage commodity charge from \$6.48 to \$6.67 per 100 cubic feet (includes system losses) in accordance with the pass through increase from Genesee County Water and Waste of \$0.18 per 100 cubic feet of usage.

#8 (b). Approve and authorize the Treasurer to adjust the Readiness To Serve charge per meter on all active domestic metered water accounts to be increased \$3.98 monthly.

Mr. Slattery explained this would include all residential customers but would exclude commercial/industrial lawn sprinkling meters.

Mr. Smith said he would like to table this until we know where we are at in the water fund and then I can make a more informed decision.

RESULT:	CARRIED AS AMENDED [6 TO 1]
MOVER:	Tom Martinbianco, Dennis O'Keefe
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Heffner, Conley, Wells, O'Keefe, Smith
NAYS:	Haskins

9. Motion to add agenda item #11, The Burton City Council shall be governed by the latest revised edition of Roberts Rule of Order unless otherwise provided by the City Charter, City Ordinance or other applicable provisions of State or Federal Law.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Duane Haskins, Vaughn Smith
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Haskins, Heffner, Conley, Wells, O'Keefe, Smith

10. The Burton City Council shall be governed by the latest revised edition of Roberts Rule of Order unless otherwise provided by the City Charter, City Ordinance or other applicable provisions of State or Federal Law

Attorney Doyle stated the Charter indicates that you shall determine rules under which will be governed.

Mayor Zelenko said section 4.7 (I) in the Charter states, Council shall determine its own rules in order of business and shall keep a journal in the English language of all of its proceedings.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Duane Haskins, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Haskins, Heffner, Conley, Wells, O'Keefe, Smith

J. TABLED ITEMS

1. Approve and Authorize the Mayor and Clerk to enter into an agreement with WHG, the Woodhill Group, 20145 Woodhill Dr. Northville, MI 48167, to conduct rate studies for the purpose of setting both the water and sewer rates, for a cost not to exceed \$13,110.00.

K. FIRST READING OF ORDINANCE

1. Approve and authorize the first reading of an ordinance to repeal Chapter 153, the City of Burton Sign Ordinance, and to replace it with a new Chapter 153, which shall regulate signs within the City of Burton and which provides for the penalty for the violation thereof.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Martinbianco, Haskins, Heffner, Conley, Wells, O'Keefe, Smith

2. Approve and authorize the first reading of an ordinance to add Chapter 152, the Wireless Communication Facilities Ordinance, to the City of Burton Code of Ordinances to regulate Distributed Antenna Systems (DAS)/small cell wireless facilities located in city roads right-of-ways.

RESULT:	CARRIED [6 TO 0]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Duane Haskins, Councilman
AYES:	Martinbianco, Haskins, Heffner, Conley, O'Keefe, Smith
RECUSED:	Wells

3. Approve and Authorize the first reading of an ordinance amending the City of Burton Code of Ordinances by the addition of Chapter 33 - City Property, generally, and by adding section 33.01 regarding the display of flags on city-owned property and providing the penalties for violation thereof.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Duane Haskins, Councilman
AYES:	Martinbianco, Haskins, Heffner, Conley, Wells, O'Keefe, Smith

4. Approve and authorize the first reading of an ordinance to amend Chapter 92 of the City of Burton Code of Ordinances to regulate fire prevention for commercial medical marijuana facilities.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, Heffner, Conley, Wells, O'Keefe, Smith

L. SECOND READING OF ORDINANCE

1. Approve and authorize second reading of Ordinance 2017-____-116.05, an Ordinance Amending Chapter 116 by the addition of Section 05 providing for the PILOT program extension for Burton Place Apartments.

RESULT:	CARRIED [6 TO 1]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Vaughn Smith, Councilman
AYES:	Martinbianco, Haskins, Heffner, Conley, O'Keefe, Smith
NAYS:	Wells

2. Approve and Authorize second reading of an ordinance for Zoning Case #318, amend chapter 157, the zoning ordinance, of the code of ordinances of the City of Burton to regulate Commercial Medical Marijuana Transaction Facilities

Mayor Zelenko stated this is a second reading of the ordinance, not the first reading.

Mrs. Abbey said this City ordinance is for the entire city, however there are location limitations on all uses. She went over the limitations.

RESULT:	CARRIED [UNANIMOUS]
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Duane Haskins, Councilman
AYES:	Martinbianco, Haskins, Heffner, Conley, Wells, O'Keefe, Smith

City Council went into closed session at 9:30 PM and returned at 10:25 PM.

Meeting was adjourned at 10:27 PM.
