CITY OF BURTON

BURTON CITY COUNCIL MEETING

OCTOBER 2, 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 7:00 PM.

A. INVOCATION LED BY: TINA CONLEY

B. THE PLEDGE OF ALLEGIANCE IS LED BY: TINA CONLEY

C. ROLL CALL

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

D. STAFF PRESENT

Paula Zelenko, Mayor
Rik Hayman, Chief of Staff
Sue Warren, Human Resource Director
Ginger Burke-Miller, Controller
Robert Slattery, DPW Director
Charles Abbey, Deputy DPW Director
Marcy Kimball, Records Tech

E. APPROVAL OF MINUTES

None.

F. ADMINISTRATIVE REPORTS

Report from Mayor Zelenko:

- I would like to introduce or re-introduce you to Charles Abbey. Mr. Abbey was hired to fill the DPW Deputy Director position. He is not a civil engineer, so he is not being paid the same wages as Mr. Kray. However, he is experienced with all aspects of the DPW operations and has the institutional memory to best assist Mr. Slattery in improving our DPW operations. I hope you will welcome him.

- The City Clerk and Deputy City Clerk are on administrative leave pending an investigation into accusations from a citizen. At this time, they are on leave for their best interest and for the best interest of the City, and are not presumed guilty. We do not have any details of the findings but you need to know that the accusations

are not in any way related to elections. In the meantime, Davison Township Clerk, Cindy Shields and her staff have been here to evaluate our situation. Davison Township does not have an election this year and has agreed to assist us all the way through the November Election should we need. Genesee County Clerk John Gleason has been most helpful and has had staff from his office out to ensure we are on target. Rik Hayman has been sworn in as Acting Clerk and Sue Warren as Acting Deputy Clerk so that we have authorizing signatories for day to day business. In addition, Genesee Township Clerk Wayne Bates has been assisting Clerk Shields. At this point the pre-election testing is complete and successful and absentee ballots are out to those who have submitted an application. Marcy Kimball has done an excellent job of taking on extra daily work, making sure the absentee ballots are processed as they come in, as well as contacting election workers to confirm they are working the November election and scheduling them for training on the new equipment.

- I would like to schedule a special council meeting to address at least three items: References and estimates for the SAW sewer rate study as we discussed at the workshop with Stantec, to ask for your approval on an inter-governmental agreement with Davison Township for assistance with the election, and to approve meeting minutes from the last few meetings.

- Drawing your attention to tonight's agenda, is the first reading of an ordinance. Attorney Doyle has drafted this to amend an ordinance providing for the PILOT Program extension for Burton Place Apartments.

- At your seats, I have laid a copy of a memo from Doug Piggott, Rowe, regarding the Master Plan. It is information you already know but it was not in our packets.

- Also, at your seats, an email from Chief Osterholzer that I passed on to the city's administrative staff, regarding one of our Burton police officers, Angel Corchado. Angel's mother and brother are victims of the recent hurricane in Puerto Rico and due to the devastation, Angel has been struggling with being unable to get information if they were ok. Today, his brother was finally able to contact Angel that he and his mother are ok and have been in a shelter, but are in a bad way and as soon as Angel can get a flight down there, he will be bringing his mother and brother back to Michigan. The Burton PD is taking up a collection to help Angel with the costs associated with bringing his family home. Certainly, no one is obligated to contribute financially, but if you would, please keep Angel and his family in your thoughts and prayers.

- Also at your seats, are sponsorship forms for the Trick or Treat Trail, if you are so inclined to participate? I am sure Mrs. Conley will elaborate on Park and Rec items.

- One last noteworthy item. Our controller, Ginger Burke-Miller successfully completed the Certified Public Accountant exam in 1992. Last week she officially received her CPA license from the State of Michigan! Congratulations, Ginger!

1. Revenue and Expenditure Report August 2017

G. COMMITTEE REPORTS

Christina Conley said she is looking for sponsors for the Trick or Treat Trail event.

Vaughn Smith said he endorses the plan that is on the Planning Commission agenda.

H. AUDIENCE PARTICIPATION

Debra Argue of Burton spoke against the stop signs on Judd Rd.

Sedona Myers, resident of Burton and President of the Friends of the Library at the Burton Memorial thanked the DPW for digging the holes for the trees. She said there are four different species of Maple trees. This will give color and shade to the park.

Jim Craig of Burton spoke regarding the P&R plan and said he hopes council will support it.

John Stapish of Burton asked about the #9-Pilot Program and why we are supporting them? He said he thinks it should be voted down and asked why there haven't been any taxes on this place?

Rick Fuhst of Burton said I found a sewer bill for a 2001 non-metered house $39.99. Later on that day he received 2017 sewer bill for $118.89. It has gone up approximately three-fold. We need to get in touch with the County Commissioner to find out why the increases.

I. COUNCIL DISCUSSION

Mr. O'Keefe asked the Mayor about the 5-Year forecast, when it would be updated and re-ran. Wanted to know if there was a date that it would be completed by.

Mayor stated we were in an audit right now. Plante & Moran were coming in and doing other services. We can ask them to assist us with that.

Mr. O'Keefe said I think it's very important. After the budget meetings we did not get an updated one. We normally do. I hate to say it, but there's going to be some real bad news in that forecast. I would like to get it personally so that I can get prepared and be able to figure out my strategy. We can't wait until budget time to look at this.

Mayor Zelenko said we have been talking about a review of our finances as well, so I would like that 5-Year forecast before we do that.

Mr. Martinbianco said we've been informed by the Mayor that there's been a temporary change in the Clerk's Office with both the Clerk and Deputy clerk. I am concerned because we have not had this issue come before us where a charter member has been suspended or called out. I think we need to know from a stand point of the charter what we need to do to recognize someone else. Because it is a charter appointment, it requires council approval.

Attorney Doyle stated because of the urgency with the elections around the corner and this being immediate suspensions with pay, the Council should act. In the meantime it was imperative that the City move forward to keep business as usual.

Mr. Martinbianco said he agrees except that we have not been presented with that resolution to appoint somebody in the interim. You can bring people in from anywhere but they're not officially recognized by this City Council to conduct business.

Mayor Zelenko said the positions have not been vacated. Until we get a weigh in from the findings of the investigation, it was in the best interests of the City, the Clerk and the Deputy Clerk to have them removed from office. We would've done the same thing if one was on vacation and the other was sick we would have sworn in another person to be the Acting Clerk. We did this when we had no Clerk at one point and Sue Warren was the Acting Clerk. We have to be careful because they are still employees and still employed by

this City and there's no vacancy at this point. We are waiting for advice from the labor attorney and the findings from the investigation and we have to remember that everyone is presumed innocent until they are charged or presumed guilty.

Mr. Martinbianco said he is taken aback that Council was not fully informed on what was going on. Maybe we need to get more informed with an executive session.

Mayor Zelenko said we could do that and ask Attorney Leadford to be here but I don't have the findings yet. I did immediately call the Council President to let him know.

Martinbianco said I would suggest that Mr. Leadford is available at the next meeting on October 16th or that we get together in a few days to discuss it. But this council, through the Mayor, appoints the City Clerk and whoever the Deputy is happens to be the Deputy as appointed but it is this Council's responsibility to make sure that that's exactly what happens and is done for the right reasons.

Mayor Zelenko said that is very true but Ms. Karsney is still the City Clerk.

Martinbianco said but somebody else has been delegated her responsibilities and that's what I don't get.

Heffner said we are actually still getting emails from her.

Mayor Zelenko said they are actually coming from the Clerk's office because they are still in her name and she is still the city clerk.

Attorney Doyle stated Teresa Karsney is technically/legally your City Clerk. There is no vacant position to appoint at this time. She is the City Clerk, she is currently suspended and the position is not vacant.

Mr. Haskins said I just have a question, I understand the position is not vacant but we did hear tonight that we have a clerk sworn in and a Deputy Clerk sworn in so you don't alleviate the fact that they are acting or not they are sworn in as current Clerk and Deputy Clerk.

Attorney Doyle said they're acting, that's correct. If they were ill, they would not be terminated, their position would not be vacant. The City would need to fill that position.

Mr. Martinbianco said I'm concerned, Mr. President, about whoever's fulfilling that role having the requisite skills, not only skills but the requisite things of the Charter that would allow her or him to be able to come in and fulfill that role. I don't know if that's the case.

Mayor Zelenko stated I can tell you that Mr. Hayman is a Certified Elections Clerk, he did go through that training. He has never held an election on his own. That's the reason why Clerk Shields is here.

Mr. Martinbianco asked does he live in the City of Burton.

Mayor Zelenko stated no he does not, but neither does Clerk Karsney.

Mr. Martinbianco asked does Clerk Shields live in the City of Burton. Ms. Karsney was granted a waiver by the City Council as you are well aware. Ms. Shields obviously does not

live in the City of Burton either so that would require those kinds of waivers that would come before the City Council.

Mayor Zelenko said if I was appointing her to a vacant position, yes it would. We are not appointing to a vacant position.

Mr. Smith spoke in response to Mr. Fuhst question about the sewer bills. He said recently there was a meeting with respect to the SAW Grant and Sewer. Part of the discussion at the meeting was how do we pay for this, the water and sewer side. Decisions based on bonding issues and the last company we used wasn't accurate. My point to Mr. Hayman is we can only make decisions with information we were given. In the future, we need recommendations from other municipalities. I guess we have to look at what we've done within the last couple of years. Are we doing too much too fast? What can we afford and how fast can we do it. As far as Jim Craig, good things are happening. The P&R Plan is still good just needs a public meeting. To both Sedonna and Ms. Argue, there was a room full of people here from Judd Road. There were a substantial amount of people saying that stop signs were needed to keep children safe.

Mr. Heffner said I would like to ask the Mayor about the equality flag. First off, I called you when it first went up, and voiced my displeasure on it. I think that we are opening up a can of worms where all of these other organizations are going to want their flag up there. I believe your response to me was the reason you put that up there was for equality month in October and you wanted to show the City's support. I probably misquoted that but can you explain that.

Mayor Zelenko said it's actually LGBTQ history month in October. The history of the rainbow flag goes back long before its' association with LGBTQ. It is representative of all people regardless of age color creed ethnicity gender or disability. Red means life, orange is healing, yellow is sunlight, green is nature, blue is harmony and peace and purple is spirit. The incidents that have been identified as hate or discrimination that have happened in our City, both those known to the media and those not known to the media can no longer be tolerated. This Council has taken a step towards addressing anti-discrimination with an ordinance set before a legislative committee to include sexual orientation and gender identity. What a better time than now, in October, to take the stand that we will not tolerate such hatred acts of discrimination that all people are welcome in this community. As elected officials and public servants, we are committed to represent all people whether they support us or not. Two weeks ago I met with representatives from Michigan Department of Civil Rights and US Department of Justice Community Relations Service on ways to be proactive and address those problems. We received some good ideas and this was one of the ideas. So we put the flag up. It will be up in October and it will be up in June.

Mr. Heffner asked is it basically just to advertise our support?

Mayor Zelenko stated I'm not saying that, no, the flag isn't to condone any type of life styles or religions. We acknowledge that there are different people with different beliefs who come from different backgrounds and that we support them all and we want them to be inclusive in our community and we have to represent them all and provide services to them all, that's what this is about.

Mr. Heffner said the problem I have, Chapter 157 of our Zoning Ordinances under Outdoor displays Section D, clearly states that advertising flags, banners and temporary signs shall

not be permitted and that's clearly an advertising flag. It's not a military flag, it's not a State or City flag, it's surely not recognized by Congress as a MIA POW flag.

Mayor Zelenko stated I disagree, it's a rainbow flag.

Mr. Heffner asked how we as a City can ask our residents and our businesses to follow our ordinances if we're not going to follow them.

Mayor Zelenko said I think you should defer to Attorney Doyle if this is in violation of any ordinance or policy of this City.

Mr. Heffner said I'm not against equality, to each their own. I'm not judging. What I'm judging is you flying a flag, are you going to let a Christian flag up there during Christian month?

Mayor Zelenko said we have a constitution with the separation of Church and State. So you can't do that.

Mr. Heffner asked but you can pick and choose what ones you want? There's a million of them out there. There are other organizations out there. I'm not against the gays, lesbians, but the laws the law and we will refer to the City Attorney. I think it's wrong. More groups will come in here and want to do the same thing.

Attorney Doyle stated that particular section does not apply. Discussion ensued regarding the term "advertising".

Mr. Martinbianco asked when the banners are up for Back to the Bricks what does that constitute? If we were to request to fly a University of Michigan flag would we be denied? Maybe Mr. Hatfield would like to fly the MSU flag. Where do you draw the line?

Mayor Zelenko stated I've been ridiculed in the recent past for not reaching out to every Council person to find there availability for a meeting even though I do have the authority to set one but I'm reaching out to you now.

A Special Council meeting was agreed on and set for Thursday, October 5 at 5:00 PM.

Mr. Martinbianco inquired about Potter Road, Genesee Township out to Vassar.

Mayor Zelenko answered the week of October 9th, ditching, culverts and paving will begin. The County puts out weekly updates.

J. COUNCIL ACTION

1. Approve and Authorize the Attorney Billing (Amanda Doyle) from 09-13-17 through 09-26-17 in the amount of $6,373.75.

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

2. Approve and authorize the Attorney Billing (Masud) 08/02/17 - 08/29/17 in the amount $9,118.20.

   Mr. Haskins asked how are things going with Masud, any updates lately?

   Ms. Warren said there is no activity to report as far as negotiations.

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

3. Approve and authorize the Mayor and Clerk to enter into an agreement with Rowe Professional Services Company 540 S. Saginaw Street, Flint, MI 48502, to provide Additional Inspection and Administration Services for the Bristol Road Bridge Rehabilitation Project for a cost not to exceed $46,538.00.

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

4. Approve and authorize the Mayor and Clerk to enter into a contract with Scodeller Construction Inc. 51722 Grand River Ave., Wixom MI 48393 to provide crack sealing on City Major Streets for a cost not to exceed $75,000.00.

   Mr. Haskins asked if we do our own crack sealing. Were there only two bids being received and was anyone local given notice of the bid?

   Mayor Zelenko said yes we do, this is to help with major streets. I will defer to DPW Director and Deputy DPW Director.

   Bob Slattery stated we do some of our own work. We will be working on local streets in two weeks. We hire Scodeller to do major streets. It was advertised in MITN, the Views and all of the other usual advertising places. Council approved $75,000 for crack seal in this year's budget. The bid was for price per pound, not to exceed $75,000.

   Mr. Abbey said if we bid out for price per pound, you get more work done. If you bid on a per road basis, you will not know how much material will be used. We will prioritize the roads from best to worst.

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

5. Approve and authorize the draft City of Burton Master Plan for public hearing by the Planning Commission and that the notices required under the Michigan Planning Enabling Act be sent and published.

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

6. Approve and Authorize the resolution for City Council to assume authority for final approval of the City of Burton Master Plan.

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

Motion to Table Item #7: Approve and authorize the Mayor and Clerk to enter into a Professional Services Agreement with Fleis & Vandenbrink for the purpose of updating the 5-Year Park & Recreation Master Plan at a cost not to exceed $10,000.00.

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

7. Approve and authorize the Mayor and Clerk to enter into a Professional Services Agreement with Fleis & Vandenbrink for the purpose of updating the 5-Year Park & Recreation Master Plan at a cost not to exceed $10,000.00.

   Mr. Haskins asked which Clerk are we referring to and when would this be?

   Mayor Zelenko stated whoever is in that position and is present to sign and it would be in the next few days.

   Mr. Haskins I'm good with it, but I feel maybe we need more clarification on who is going to be the Clerk and acting Clerk. Maybe we should table this.

RESULT:	**CARRIED [5 TO 2]**
MOVER:	Dennis O'Keefe, Councilman
SECONDER:	Christina Conley, Councilwoman
AYES:	Heffner, Hatfield, Conley, O'Keefe, Smith
NAYS:	Martinbianco, Haskins

8. Budget Amendment (Budget #1977-1978) Approve and authorize the following 2017-2018 budget amendment: Decrease (1001-0000-390.0000 Unappropriated Surplus) by $10,000; Increase (1001-6090-818.0000 Contractual Services) by $10,000 (for Park and Recreation Master Plan).

   Ginger stated this pertains to the 5-Year Parks & Recreation Master Plan that was not budgeted for in the original 2017-2018 budget.

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

9. Approve and Authorize Resolution 2017-9 extending the Burton Place PILOT Program for Burton Place Apartments.

Attorney Doyle stated I received an email from Bill Fowler. Burton Place was under a PILOT Program, which became ineffective. An extension was needed sooner rather than later. They pay a percentage or $30,000 to the City, whichever is greater, to assist in low income housing. We ask that we continue on with this under the new ownership that has been approved by the State. They need this in both resolution and ordinance form to extend the plan. The original ordinance was implemented in the 70's. The original ordinance (48C) never made it to the Codified Ordinance book. State agreed to postpone the closing. They can't get the financing without your approval.

Mr. Haskins said he wasn't opposed to the program, but would like to get more information on this. I don't want to go into this blind, for 40-50 years. We need the material to back it up to see where we were and where we are going with it.

RESULT:	**TABLED [UNANIMOUS]**	**Next: 10/16/2017 7:00 PM**
MOVER:	Duane Haskins, Vaughn Smith	
SECONDER:	Tom Martinbianco, Councilman	
AYES:	Martinbianco, Haskins, Heffner, Hatfield, Conley, O'Keefe, Smith	

K. FIRST READING OF ORDINANCE

1. Approve and Authorize first 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.

   Mr. Haskins would like to see more documentation on this.

RESULT:	**TABLED [UNANIMOUS]**
MOVER:	Vaughn Smith, Councilman
SECONDER:	Duane Haskins, Councilman
AYES:	Martinbianco, Haskins, Heffner, Hatfield, Conley, O'Keefe, Smith

Meeting was adjourned at 10:00 PM.

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