CITY OF BURTON

BURTON CITY COUNCIL MEETING

JUNE 26, 2017

MINUTES

Council Chambers | **Special Meeting** | **7:00 PM**

4303 S. CENTER ROAD
BURTON, MI 48519

This meeting was opened by President Steven Heffner at 7:02 PM.

A. 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	

B. STAFF PRESENT

Paula Zelenko, Mayor
Thomas Osterholzer, Police Chief
Rik Hayman, Chief of Staff
Teresa Karsney, Clerk

C. ADMINISTRATIVE REPORT

Mayor Zelenko stated she had no report tonight. Thank you.

D. AUDIENCE PARTICIPATION

Council received comments from the following:

Robert Long of Burton, How much is this going to cost the City for this Attorney? Thought the $17.00 per household should have gone in to the retirement fund or to roads. Mayor working on water issues and trying to bring business to Burton. Thought the council has a vendetta against the Mayor. Wants to see the city flourish.

E. COUNCIL ACTION

1. Consideration and possible action regarding retaining outside Counsel to represent the Burton City Council in legal action to enforce the City's adopted Fiscal Year 2017-2018 Budget.

   Mr. Martinbianco stated he thought this is unprecedented in every step of the way. I respect what the Mayor's consideration is relative to her submission of a budget. I would call to the attention of the Council that we did have our legal counsel talk about the impact of what our council did and move it forward which was consistent with past practice and with the Uniform Budgeting Act. We had to make some tough decisions, which we did, and what we have is the final analysis. What we are here for tonight is hiring outside counsel to represent the City in legal action. My hope is that we don't have to go that way. In my reading I don't see that the Mayor has the

authority to do that. The Attorney opinion stated the Mayor proposes the budget, the council adds or deletes from it as we choose to do so. If it happens to be a problem with the administration of the budget and execution of her duties then and only then will we have those problems. Looking at what we proposed, looking at what the charter says, looking at what the council has brought forth I didn't see a problem there. The Mayor has chosen not to veto the budget and the City Attorney has given her opinion. If the Mayor has chosen not to accept the budget the City Council has put forward that at that time would I consider taking action.

Mr. O'Keefe wants to make sure he has it clear. He asked the City Attorney, the Mayor has declined either to veto or accept the FY2017-2018 budget for the reason that there is no authorization in the Charter of City of Burton for the City Council to initiate its own budget amendments proposals or to alter or amend those submitted by the Mayor. Ever since I have been on Council we have used the same process. Are we voting to have the ability to have outside counsel if we end up in court?

Mr. Martinbianco stated that yes that is what we are doing. It has been done before during Mayor Nimchesky and Mayor Smiley's time in office. City Council passed a budget, the Mayor declined to exercise a veto, and the budget is the budget as passed. Maybe we should ask the Mayor if the office is being impaired by the action the Council took. Basically we said here is the dollars you have to work with and you have to work within what we have given to her. If she chooses not to do that, it is her obligation to take us to court.

Mr. O'Keefe stated that action we are voting on is the action to have the ability to hire an attorney if the Mayor chooses not to follow the budget we set forth. So we are being proactive instead of reactive.

Mr. Martinbianco said over the past 30 years I have never seen this proactivity go on. We have had some disagreements budget wise between City Councils and Mayors but we have always taken care of it through the budget process, we just went through. It has taken us a little longer. We thought we reduced the levy to 4.000 mills a year ago. Maybe we should have sent that message strong to the Mayor this year. Maybe the Mayor can subrogate her meeting for tomorrow night tonight.

Mr. Haskins addressed Mr. Long's question about how much this is going to cost. Council has no idea. This is one thing that any person wants to go through. We have a Charter on how things operate in our City. Even when Mayor Zelenko sat on Council, she did the things the same exact way, as this council is doing it now when it comes to the budget. Just so you know, no road projects were ever stopped. I voted no on raising water and sewer rates, which helps keep business and residents here. You can't just decide one day that you are not going to abide by the Charter and do things that you want to do. The City hasn't operated that way in the years of its existence.

Mr. Smith also responded to Mr. Long. He stated all the organizations that he belongs to and what he has done for the City. I have nothing against the Mayor personally, I do have issues from a financial perspective. If you look back at the 2016 CAFR the number of employees we have in the budget is 103 that is the highest number of employees since 2008. When we had 105 employees the taxable

value was a little under 800 million; now it is 540 million. In 2014 payroll was 43 cents out of every dollar in general fund and in 2016 it is 57 cents out of every dollar. If we continue on this spending spree in 4 or 5 years we will be in trouble, we will end up in some type of receivership with the State.

Mr. Hatfield stated that we are here to consider if we should hire an outside counsel to represent City Council in legal action to enforce the City budget as adopted. My question is more of a timing issue. We have adopted a budget, that hasn't been vetoed, and come July 1, 2017 the budget would be in effect. I guess the legal question is going to be, how are we going to know, when are we going to know if the budget is being enforced or not? We have received a letter saying the Mayor doesn't intend to put the budget in place. Do we need outside legal counsel at this time and what kind of action would we take?

Attorney Doyle stated that you can wait until you feel necessary that the budget isn't being adhered to. I have had conversation with Mr. Heffner, Mr. Haskins and Mr. Smith that the tax bills have to go out soon. If the budget isn't going to be followed are the tax bills going out at 4.000 mills? Potently speaking you can file suit at any time.

Mr. Hatfield asked what that suit would be.

Attorney Doyle stated it would be somewhat of an injunction.

Mr. Martinbianco asked if the Mayor is going to pull her stuff back. My suggestion would be if she would withdraw her letter.

Mr. Heffner asked Mayor, are you willing to withdraw this letter and follow the budget as legally adopted by this Council?

Mayor Zelenko stated that is what tomorrow night's meeting is all about.

Mr. Heffner said I am asking you right now.

Mayor Zelenko stated that is not what this meeting is about.

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

Meeting was adjourned at 7:36 PM.

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Consideration and possible action regarding retaining outside Counsel to represent the Burton City Council in legal action to enforce the City's adopted Fiscal Year 2017-2018 Budget.

COMMENTS - Current Meeting:

Mr. Martinbianco stated he thought this is unprecedented in every step of the way. I respect what the Mayor's consideration is relative to her submission of a budget. I would call to the attention of the Council that we did have our legal counsel talk about the impact of what our council did and move it forward which was consistent with past practice and with the Uniform Budgeting Act. We had to make some tough decisions, which we did, and what we have is the final analysis. What we are here for tonight is hiring outside counsel to represent the City in legal action. My hope is that we don't have to go that way. In my reading I don't see that the Mayor has the authority to do that. The Attorney opinion stated the Mayor proposes the budget, the council adds or deletes from it as we choose to do so. If it happens to be a problem with the administration of the budget and execution of her duties then and only then will we have those problems. Looking at what we proposed, looking at what the charter says, looking at what the council has brought forth I didn't see a problem there. The Mayor has chosen not to veto the budget and the City Attorney has given her opinion. If the Mayor has chosen not to accept the budget the City Council has put forward that at that time would I consider taking action.

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ATTACHMENTS:

- Special Meeting 06-26-17 (PDF)

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

RECEIVED
CITY OF BURTON
2017 JUN 23 AM 11:52
CLERK'S OFFICE

June 23, 2017

Special Council meeting requested by Council President, Steve Heffner and Vice President, Duane Haskins on Monday, June 26, 2017 at 7:00 PM for the purpose of:

Consideration and possible action regarding retaining outside counsel to represent the Burton City Council in legal action to enforce the city's adopted FY year 2017-2018 budget.

Steve Heffner 23 June 2017

Signed Dated

6.23.17

Signed Dated

Attachment: Special Meeting 06-26-17 (3120 : Retaining Outside Counsel)