

CITY OF BURTON
REGULAR COUNCIL MEETING MINUTES
JUNE 4, 2012, 7:00 P.M., COUNCIL CHAMBERS
www.burtonmi.gov

Councilman Danny Wells led the Invocation and Pledge of Allegiance.
The Regular Meeting was called to order by President Tom Martinbianco at 7:00 p.m.

MEMBERS PRESENT: Wells, Smith, Ellenburg, O'Keefe, Heffner and Martinbianco.
MEMBERS ABSENT: Haskins.
OTHERS PRESENT: Mayor P. Zelenko, Police Chief T. Osterholzer, G. Burke-Miller,
Controller and J. Adams, City Clerk.

Heffner moved and Ellenburg seconded the following motion:
Approve and authorize the minutes of the Regular Council Meeting on May 21, 2012 at 7:00
p.m. Motion carried 6-0.

ADMINISTRATIVE REPORT:

Mayor Zelenko stated Stacey Betts did a wonderful job with the Memorial Day festivities. Under
Section 8c of the Open Meetings Act, she would like Council to go into Executive Session
regarding pending litigation settlement.

Mr. Martinbianco said Council will go into Executive Session under Section 8c of the Open
Meetings Act at the conclusion of Council Discussion.

Mayor Zelenko stated Holy Redeemer's festival had to be shut down due to a large number of
teens and young adults that stormed the area including Krogers, Tim Horton's, Wendy's and
Speedway. Fights broke out similar to what happened at Back-to-the-Bricks. Our police force
worked in tandem with others and made the decision to protect the safety and welfare of the
public. Chief Osterholzer is here to address any questions.

Mayor Zelenko expressed that on Sunday, July 1st from noon to 3:00 p.m. will be the City's 40th
birthday celebration. There will be an ice cream social and cake on the City Hall front lawn.
Martin's Hardware will help us with tents, chairs and tables. On Saturday, July 28th at 10:00 a.m.
the road trip workshop is scheduled for our road conditions. In tandem with Rowe Incorporated,
City Council, DPW personnel and folks from the public, we will do a presentation here at City
Hall at 10:00 a.m. on what we are looking for. We will give everyone survey sheets, load the bus
and drive around the City and have everyone help rank the roads and give input on what our
roads are like and then come back here to do a little briefing. Rowe will take these surveys,
compile the information and come back to another workshop a couple of weeks later. That will
give us a clear picture on our road conditions and types of repairs that need to be made on our
roads. They will try to put some cost figures with that to help us move forward with our
decisions on what we need to do to improve our roads. Anyone from the public that would like to
participate please let us know and call our office as soon as you can.

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Mayor Zelenko gave an update on the motor cross track on Belsay Rd. Susan Doty from DEQ determined the small amount of earth change that was done did warrant a soil erosion permit. The owner has obtained that permit. He can stabilize the area all within 500 ft. of the creek with grass, or he can farm the area and that would make it totally exempt. Or, we can allow him to leave the ground exposed and every time it rains we have to go out and do a soil erosion inspection. He decided to do a combination of 1 and 3. He moved the track 400 ft. and reseeded that and we will for the next 6 months on the other 100 ft. do a soil erosion inspection every time it rains. There were no erosion issues from the last recent rain. He has already reseeded it.

Mayor Zelenko expressed further that the soil erosion permit is a separate issue from the noise or preventing him from having his bikes because he will have to mow it. So he will have a lawnmower and he may have a tractor and he may be able to ride his bikes on that. The soil erosion permit is about protecting the creek bed and the erosion of the soil. He has complied with all of that. Lt. Warden was put in charge of this situation from the police department's enforcement and he is here tonight if you have any questions. We have had several conversations with our Attorney and you can direct some of the questions to him. He may have input that he would like to provide in this situation as well.

COMMITTEE REPORTS:

Mr. Heffner stated that on Sunday, May 27th the Parks & Recreation held a Car Show and Concert for the Toys-for-Tots benefit. Mother Nature was not too kind to us. We started out with hail and ended with a thunderstorm. We raised \$800.00 in cash and lots of toys. The youth league started tonight. He has a schedule for everyone. We are asking Council, residents and the administration that would like to volunteer, to sell concessions at these games. We will be selling pop and water. The money will benefit the Kelly Lake match money for the grant. Anyone can contact him if they would like to volunteer.

Mr. Martinbianco thanked Councilman and Finance Chair Vaughn Smith for his leadership with the City's budget workshops.

AUDIENCE PARTICIPATION:

Jerry Bell, 4370 S. Belsay Rd., stated he is owner of the property with the motor cross track. He addressed problems he has had with Maple Creek residents that were unrelated to the motorcycles. There is heavily wooded acreage between my property and theirs; it is not just a lot. He did decibel readings and it did not read the 2 bikes on the track over the breeze, rustling of leaves and a flagpole that clings. His lawnmower, weed whacker and those types of things way override the sound of the exhaust on the bikes. These bikes are stock and no modification was done to the exhaust. He received a citation for noise and fought it. He did not have to pay for the citation. Any officers that came out to the house kind of laughed and said their concern was there are a lot of better things they could be doing. DPW came out and no soil erosion was found. He got a permit and was asked to make changes to the track, which he did. Very seldom does he himself ride a motorcycle. He has a 3 year old and an 8 year old.

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Mr. Bell stated further, he does not have to do this but for the sake of compromise and showing good faith, he proposes to only ride on the track Tuesday, Wednesday, Saturday and Sunday and in the hours of 11:00 a.m. to 7:30 p.m. They won't ride any bike that is over 125 cc's to keep the noise down. He would like to exclude utility quads as he uses those to haul wood around.

Mr. Martinbianco asked Mr. Bell if he races snowmobiles. Mr. Bell replied that he does not.

Bill Dumas, 7749 Maple Creek Dr., stated he is here on behalf of the members of the Maple Creek Condominium complex. He asked the residents to please stand. Mr. Martinbianco acknowledged the residents. Mr. Dumas indicated that Mr. Bell's property is 195 ft. from the back yards of the condos that are on the north end of our complex. We question why more wasn't done to prevent what was going on when DPW went out to inspect it. Some of those diggings are more than a foot deep and water is here and there.

Mr. Dumas stated further a DPW employee said it looked like only the grass had been moved and that is not true. We are not talking about noise from lawn mowers or weed whackers. We are talking about dirt bikes. The bike there last night was not a 125 cc but more like a 450. It was very noisy and anyone here can verify that they could hear the motorcycle. It started about 5:40 p.m. and went for about 10 minutes and stopped for a while and then started up at 6:00 p.m. and did it on and off till 7:00 p.m. Mr. Dumas stated he has had 4 motorcycles and know what they sound like. The first time he heard a motorcycle coming from him it sounded like a bike that had one baffle removed. It was almost straight pipe and the db level was significant. He mentioned something about db's but not what the reading was that he took when he was using a meter. Mr. Dumas said he wished to have been able to showed Council some information relative to different sounds and how high that sound can get before it is offensive. That motorcycle is not quiet.

Mr. Dumas addressed further the Burton Noise Ordinance, Section 146.01. He said it addresses motorcycles and the noise created by them, which would disturb the repose of the people that are living in the area. That is exactly what we are complaining about and I don't know why that doesn't apply to what is going on tonight. That noise is excessive and is reducing the value of our homes significantly. He ask if they would take a shot at how much you think their values would drop simply because that track is directly behind our complex. He bets it would drop 10 to 15% and that would amount to over a \$750,000 loss in value to our property. Mr. Dumas asked how a dirt track was possibly allowed to exist in a suburban residential area. No one has said you can't use a chain saw, we all understand those things can go on for a short period of time. But if I took that chain saw and sat at the back of Mr. Bell's lot along side the property line a 195 ft. from his house and ran it wide open for as long as I felt like it, or for 15 – 20 minutes, I guarantee he would come out and would want to know what is going on. Mr. Dumas said the DEQ is making him move the bike track back 400 to 500 feet. The Mayor said 400 feet and then another 100 feet. He asked what that extra 100 feet was for. Mr. Dumas asked when they could expect that track to be removed and not used for a dirt track, which is part of the Noise Ordinance.

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Tonya Drew, 4156 Morrison, said she addressed Council at their last meeting about the flooding her yard and home has endured over the last 3 years. She spoke about the drain behind her property from the Rizzo Industrial Complex. She appreciated Mrs. Ellenburg's comments on her own home being flooded. Both she and her husband are musicians and they lost their musical instruments, furnace, water heater, other damage sustained as well. Her mother's car was totaled in the flooding. She cannot drive her husband's car that had only PLPD coverage with her 5-month-old child in it because of the mold. She cannot get flood insurance because she is not considered to be on a flood plain, but when she called DPW to complain they told her oh you live over by Lake Natalie. Natalie Drive is over by her. If I live by a place that is well known to be flooded, and this is the 3rd time that her home and property has flooded, can anything be done? Ms. Drew said she mentioned the small retention ditch behind her home. She looked it up on Google Map and you can see that it is a small ditch from the satellite view. It is only 2 feet deep and very over-grown. She put a couple of calls into the County and the City requesting help with digging it out.

Ms. Drew stated further when the flood happened, she came to City Hall with her pictures and was prepared to fill out paperwork for FEMA but was turned away and told I didn't need to do that. My uncle lives off of Maple Rd. in Flint Township and his driveway was washed out. Flint Township required him to fill out paperwork and provide pictures. She is concerned because she was told by City Hall she didn't need to do that. Ms. Drew said she loves her home and where she it is at, she has an acre wooded lot right off Saginaw St., which means I have all the beauty of the country. But if she has to worry about her home flooding and can't even use her basement to the ability it could be used for, why should she stay there.

Janet Tilly, 4420 Sunset Blvd., stated she lives directly behind the racetrack. He said he would quit at 7:30 p.m. We all have patios and grills. We are not able to go out and grill our food and eat outside when he is still running at 7:00 p.m. to 7:30 p.m. at night. You don't want to go out there, you can't hear conversation. She was at neighbors the other night and they had the door open and you could hear everything. I went home and had to shut my doors. It is very disturbing at 7:00 p.m. to 7:30 p.m. at night.

Betty Swanson, 4477 Maple Creek Dr., stated there is about 100 ft. to 150 ft. entrance into Maple Creek Subdivision, and she is the 8th house coming in off of Maple Rd. I heard it last night plain and clear, even in the house. I went out in the driveway and it was very loud. I am not even down at the other end of the street where this track is adjacent to. Mr. Bell stated the officer laughed when he came to his house. I have a concern about that because that didn't sound very good. Because it is public now, what bothers me is if I decide to sell, and I am going to, I just retired, this now becomes a disclosure issue with me in selling my house. If I listed this house knowing there is a potential noise situation if this is not resolved, all of us here from Maple Creek, this is going to have to be disclosed. It is not a good feeling to know I am going to take someone through my house and say oh by the way 4 days a week up until 7:30 p.m. at night you are going to have to hear motorcycle noise.

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Rick Fuhst, 1208 S. Genesee Rd., expressed concerns of the disturbance at the Holy Redeemer festival.

COUNCIL DISCUSSION:

Mr. Heffner inquired to Mr. Austin regarding the citation being dismissed.

Mr. Austin said he went back and reviewed the file. The citation was issued last Fall and Mr. Bell appeared and was arraigned on the citation by the Judge. He appeared initially at the pre-trial where I spoke to him. At the initial pre-trial conference, Mr. Bell submitted to me a petition signed by a number of his neighbors indicating they had no problem and in fact was in favor of the track at that time. I listened to Mr. Bell's explanation of the track. Mr. Bell and I wrote down some perimeters whereby the track would be operated including the hours of operation, number and types of motorcycles operating on the track and the matter was adjourned for approximately a month and a half from that time. The matter was left opened. There were a number of signatures, 15 to 18 neighbors' signatures on this petition in favor of Mr. Bell's track.

Mr. Austin stated further, at the appointed adjourned time Mr. Joliat spoke to Mr. Bell at the next pre-trial conference. There were no complaints and notes on the file to reflect talking further with Mr. Bell. Indications were Mr. Bell complied with all the conditions that had been set out and at that point the matter was dismissed without prejudice. Meaning the case could be reinstated, but for procedural reasons I am not going to. He would be happy to discuss those procedural reasons at a later time, but for procedural reasons I am not going to reinstate that case. That case was not dismissed for the reason that the complainant or anyone else didn't appear. At the pretrial proceedings the complainants are not required to appear. They are welcome to appear and are given a victim rights letter and notified of the pre-trial date but their presence is not required.

Mr. Wells referenced Ms. Drew's flooding problem and asked Mayor Zelenko if it is too late for her to fill out FEMA paperwork.

Mayor Zelenko replied that FEMA hasn't determined this to be an eligible area yet. Clayton Township and Flint Township was the hardest hit. That was FEMA's major concentration. When we did our initial damage assessment and collected information from people, we were documenting the type of damage they had and some people brought their pictures to us. We want them to take pictures of their property and to hold onto them. Ms. Drew's property is on our list. If FEMA does determine it is an area they are going to stake claims on, they will establish an office somewhere in the County. At that point, we will attempt to contact everyone. FEMA said they will do a huge media blast. Mayor Zelenko stated further FEMA spent 2 ½ days here in Burton going over their preliminary assessments.

Mr. Wells asked if Ms. Drew could fill out paperwork if it would make her feel better in doing so.

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Mayor Zelenko responded there is nothing for her to fill out at this point, but we do have her documented on our list along with other properties. We have been in contact with the County and are still working on those discussions. The County said the system was designed for a 100-year event and this flooding exceeded that. There were issues corrected before the County took over the system but there are still talks with this specific area as to what we can do together.

Mr. Wells said it seems like the 100-year event statement comes up every time it rains. It looks like the City is on top of this with the County. He advised Ms. Drew to stay in contact with Administration. Mr. Wells suggested to the Mayor that when she does the ride around, to publicize it for those that cannot get out to contact our web page to give their input.

Mayor Zelenko said we set the date and Rowe is putting together the maps and all the information with details. We will get it on the website.

Mr. Wells said he feels bad with everyone involved in this motor cross situation. With five brothers we always had bikes. They were fortunate not to have too many neighbors around. Hopefully, we can get this resolved. He expressed to continue the conversation and communicate.

Mr. O'Keefe said Mr. Dumas asked several questions. He referred to Mr. Austin for his response.

Mr. Austin addressed the noise ordinance. It is universally applicable throughout the City irrespective of zoning classification. It applies to all zoning classifications equally. The Noise Ordinance is a criminal ordinance, not a civil infraction. The burden of proof on the prosecutor in these cases is beyond a reasonable doubt. If the police issue a citation on this, the burden falls upon me the prosecutor, to prove beyond a reasonable doubt that a violation has been committed. I conferred with Mr. Bell this morning. He essentially reiterated many of the same things he said here tonight and some of the things he said in the Fall about the use of his property. He said he has retained the services of a criminal attorney. In the event that the police issue a citation, I will be dealing with that attorney. This is a criminal matter. If the police receive a complaint, I am sure they will respond like they usually do. This has to be committed in an officer's presence. They have to observe the misdemeanor being committed. If in fact they observe what they believe to be a violation of the noise ordinance, they will then issue a criminal citation. We are talking about Sub Sections B5, B12 and B13, whether the provisions of any of those sections have been violated. Those sections have the same words unreasonable noise or unreasonably loud noise, or unreasonably disturbing or upsetting to other persons in the vicinity. This is somewhat vague. It allows our police department to deal with loud radios and a lot of loud issues without getting a decibel reader from the police department and an expert. This has worked out well over the years.

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Mr. Austin stated in the event we receive a complaint, the police officer that responds will be charged with determining whether or not in their opinion there has been or going on an unreasonable noise of a motorcycle or whether there is an unreasonable loud noise which is disturbing to the quiet, comfort or repose of persons, or whether there is noise which is unreasonably disturbing and upsetting to other persons in the vicinity. If the officer believes that to be the case, they will write a ticket. At that point the matter will be in my hands and a series of pre-trial conferences, I suspect with Mr. Bell's attorney will take place. At that point I suspect the matter will most likely end up in trial. I will be hard-pressed at that point to dismiss the matter without going to trial. Should a citation be issued, Mr. Bell and his attorney would have the right to have a trial by Judge or by jury; that would be their choice. If they elect to have a non-jury trial, the matter would be up to Judge Latchana. The burden is on me to prove beyond a reasonable doubt whether these standards have been met, and met on the date, time and place where the citation was written.

Mr. Austin said this is not a commercial operation as I understand it and in speaking with Mr. Bell, the track is being used by Mr. Bell and his children principally. I have received no allegations otherwise. The only ordinance that comes into question is the noise ordinance.

Mr. O'Keefe said he encourages the residents and Mr. Bell to keep trying to talk. The Mayor is acting as a referee and she is doing what she needs to do. It is a difficult situation and we are going to try and come to a resolution.

Mr. Austin expressed that he is not so sure the criminal law is going to resolve this problem. I am not sure that criminal law is a good mechanism for resolving neighborhood problems. It is one mechanism that offers a potential resolution and not so sure it is the best. If a citation is issued, there are one or two possible verdicts, guilty or not guilty. If the verdict is not guilty, there is no resolution what so ever. If it is guilty, then there are some options the Judge would have available. I don't know if it would offer a final resolution. I would think dialogue between the parties really offers a more fruitful potential resolution. Mr. Bell expresses a continual dialogue with the neighbors. If they can't, maybe civil litigation is a better way to resolve this than criminal. Criminal law offers Mr. Bell all of the protections as a person charged with a crime including the very high standard of I have to prove beyond a reasonable doubt. Where as in a civil proceeding, this burden of proof is very much lower than that.

Mr. O'Keefe said he has been asked by 5 households on Lapeer Rd. to respond to an issue that happened on May 22nd at 5:30 p.m. One of his neighbors was cutting with a zero radius lawnmower on an incline and flipped it. He suffered a compound fracture. We called 911 and Office Brian Abraham arrived. Deputy Chief Gould was off duty at the time. He lives off of Lapeer Rd. and was cutting his grass. I don't know how he heard it. He came to assist. A fire truck from Station 2 was there and an ambulance. The leg was so bad they had to transfer him to Beaumont Hospital. The response time was quick. The five neighbors said they are glad that they live in the City of Burton.

Mr. O'Keefe asked Chief Osterholzer to comment on the disturbance at Holy Redeemer's festival.

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Chief Osterholzer stated he will be meeting with his supervisor that worked that night to get all the details. He also intends on meeting with the folks at Holy Redeemer. He doesn't want this to reflect poorly on Holy Redeemer. They do a great job there and do a lot of good. I think they were surprised by a situation that was very similar to a situation we had during Back-to-the-Bricks. About 200 to 300 teenagers between the ages of 14 to 16 showed up. A lot of teenagers behave themselves but there were a few that was there to cause problems, and they did. When you have that many kids packed in and fights start, these things kind of get into a frenzy and escalate into a mob. Chief Osterholzer stated further when he arrived 40 minutes into this situation, there were at least 100 to 200 kids onto Bristol Rd. Krogers and Tim Horton's had to lock their doors. There were no shootings or stabbings. A female had to be transferred to the hospital but there were no serious injuries. Sgt. Marty Coe made the decision in the interest of public safety, to shut the festival down and disperse the crowds. I totally agreed with that decision. Things were put in place to prevent it from happening again on Sunday and we didn't have any issues. I don't want this to reflect on Holy Redeemer. I think they were simply surprised by what is becoming a disturbing trend and I think it gives us all something we need to be aware of, and plan for, for all future events.

Mr. O'Keefe expressed adding to the agenda as Item #8 to approve the City's auditors, Plante & Moran to investigate, audit and review the City's MERS Plans.

Mr. Wells inquired regarding a timeline.

Mr. O'Keefe responded we need to start right now. We have a contract with Plante & Moran but he doesn't think it includes something like this. The Mayor can speak with them tomorrow.

Mr. Wells said his only concern is they are still in negotiations with the unions and this will be a major stepping-stone in those negotiations.

Mr. O'Keefe said the important thing is to figure out what is going on and what our options are. The action plan is the biggest part. He thinks to investigate, audit and review will be the easy to figure out. The important thing is what are we going to do now going forward. We need to get on this as soon as possible.

Mr. Wells said he is going to vote for it and he feels it has to happen. When this happens, he would like to see a Council of the Whole meeting so we can be on the front line with this.

Mr. Heffner said he would like to know what the Mayor thinks about this.

Mayor Zelenko said she supports the intent. She would prefer to allow her to have a conversation with Plante & Moran. Once we have the actuaries' back and some of those other discussions we are involved in and then bring it back to a Committee of a Whole. Then you make your recommendations on how you want to go. She thinks Council will make a more informed decision if we have a little more information before you move forward. Mayor Zelenko stated further she doesn't know what this is going to cost for Plante & Moran to do this.

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Mr. Martinbianco said we already have an existing agreement that we approved and this would be an amendment to the agreement.

Mr. Heffner said he agrees we need to get the ball rolling on this. This is a serious issue.

Mr. Wells asked Mr. Austin how this situation with the motor cross bikes differentiates from the problem on Dort Hwy. with the concrete crusher and the subdivision behind them. One is commercial and the other residential. It seems like there are some similarities.

Mr. Austin responded that in this instance, the Judge or the jury would be asked to weigh the property owner's individual rights to use his own property. This is something that I as a prosecutor will have to face in the event a citation is issued. If one is issued, the first thing that will be thrown up at me by his attorney is that man has property rights too. Those properties rights are significant that he has rights to utilize his property. It is a little bit different then the concrete crusher out on the street crushing concrete. They have no vested property rights there out on the street. Mr. Austin stated further, he is suggesting that the criminal law, which is what the noise ordinance is, is not the most conducive manner or method to resolve this kind of a problem.

Mr. Smith said with the citation, what kind of information is gathered by the police officer. Mr. Austin replied the citation is an appearance ticket. It cites the date and time that a violation of the law was committed and it states a little bit about the type of violation that was committed.

Brief discussion continued regarding citation procedures.

Mr. Martinbianco said Council would move into Executive Session under Section 8c of the Open Meetings Act.

Council went into Executive Session at 8:20 p.m.
Meeting resumed at 8:35 p.m.

Mr. Martinbianco asked if there is any audience participation for agenda Item #9 only. There was no audience participation.

In reference to Item #6, Mr. Heffner said as the Parks & Recreation representative, Mrs. Dunsmore has done a fantastic job and she is a vital component of the Parks & Recreation Board. Mr. Martinbianco congratulated Mrs. Dunsmore on being the recipient of the Good Scout Award. Mr. Wells said she also received a key to the City.

In reference to Item #7, Mrs. Ellenburg inquired regarding a dance permit and renewal on a yearly basis due to change of name. Mr. O'Keefe inquired regarding approvals and the Fire Chief signing off on it. Mr. Wells inquired regarding the name of the business. Mr. Heffner inquired if the owner is the same person that owns Blackberry Creek.

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In reference to Item #8, Mrs. Ellenburg asked Mayor Zelenko if she could check with Plante & Moran to get an idea of the costs involved. Mr. Martinbianco said we also have to incorporate it into next year's fiscal budget and find the money for it. Mayor Zelenko said she indicated in her administrative report that the first meeting in July we would have some indication for you. Mr. O'Keefe said he is really concerned with the action plan. Plante & Moran understands our finances and knows all the players. He has a comfort level of them giving us the information. Mr. Heffner said he has confidence in administration that they understand this isn't a blank check.

Mr. Austin asked if this would involve a transfer of funds.

Mr. Martinbianco indicated it may or may not. We are not done with the budget for the next fiscal year. Maybe this investigative audit and study will cost an additional \$10,000 to \$15,000, we can still allocate it in next year's budget if we do it in a timely fashion. Otherwise it will necessitate a transfer if we do it after the fact and the budget has already been approved.

Mr. Austin clarified that it may later involve a transfer but not necessarily tonight, so we don't necessarily need a super-majority affirmative vote to pass this motion tonight.

Mr. O'Keefe said we don't know the number yet and we are trying to give the Mayor a tool to negotiate, get the deal going and know she will be covered in the deal.

COUNCIL DISCUSSION ACTION:

Moved by Wells and seconded by Smith to: Approve and authorize going into Executive Session under Section 8c of the Open Meetings Act after Council Discussion. Motion carried 6-0.

Moved by O'Keefe and seconded by Heffner to: Add as agenda Item #8 to approve and authorize to fund action of the Mayor and Clerk to enter into a contract with the City auditors Plante & Moran, PLLC to investigate, audit, review and recommend action plan required on the City's MERS Plans. Motion carried 6-0.

Moved by Heffner and seconded by Smith to: Add as agenda Item #9 to approve and authorize the settlement of the case of Gates vs. Eads and the City of Burton for the sum of \$19,000 as recommended by Attorney Audrey Forbush, the Attorney for Record for Officer Eads and the City of Burton. Motion carried 6-0.

COUNCIL ACTION:

Heffner moved and Ellenburg seconded the following motion:

1. Approve and authorize the Attorney Billing (Richard Austin) from May 16, 2012 through May 30, 2012 in the amount of \$4,356.75.

Motion carried 6-0.

Heffner moved and Ellenburg seconded the following motion:

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2. Approve and authorize a Resolution Authorizing Sale of the E. Bristol Road vacant land, Parcel #59-31-200-009, to give first and final approval for the sale of this parcel to Kelly K. Fenner, a single woman, for the sum of \$2,050.00 cash or its equivalent, and authorizing the Mayor and the Clerk to execute any and all documents required to effectuate this sale.

Motion carried 6-0.

Heffner moved and O'Keefe seconded the following motion:

3. Approve and authorize a Resolution Authorizing Sale of the Davison Road vacant land, Parcel #59-10-100-007, to give first of two required approvals for the sale of this parcel to Kelly K. Fenner, a single woman, for the sum of \$3,277.00 cash or its equivalent.

Motion carried 6-0.

Heffner moved and Smith seconded the following motion:

4. Approve and authorize a Resolution Authorizing Sale of the E. Maple Avenue vacant land, Parcel #59-32-400-019, to give the first of two required approvals for the sale of this parcel to Ricky A. Thompson, a single man, for the sum of \$1,000.00 cash or its equivalent

Motion carried 6-0.

Ellenburg moved and O'Keefe seconded the following motion:

5. Approve and authorize the Mayor's reappointment of Michael Gordon, 1307 Kra Nur Dr., Burton, MI 48509, to the Board of Review. Term to expire July 2015.

Motion carried 6-0.

Wells moved and Ellenburg seconded the following motion:

6. Approve and authorize the Mayor's reappointment of Debra Dunsmore, 2156 Judd Rd., Burton, MI 48529, (Bendle Representative) to the Parks & Recreation Commission. Term to expire June 2015.

Motion carried 6-0.

Heffner moved and Wells seconded the following motion:

7. Approve and authorize a request to Transfer Ownership of a Class C Licensed Business with Dance-Entertainment Permit, and a SDM License, located at G-3473 Fenton Road, Burton, Michigan 48529, Genesee County, from Quarter Half Inc. to Yianni's Inc.

Motion carried 6-0.

Heffner moved and Smith seconded the following motion:

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8. Approve and authorize to fund action of the Mayor and Clerk to enter into a contract with the City auditors Plante & Moran, PLLC to investigate, audit, review and recommend action plan required on the City's MERS Plans.

Motion carried 6-0.

Heffner moved and O'Keefe seconded the following motion:

9. Approve and authorize the settlement of the case of Gates vs. Eads and the City of Burton for the sum of \$19,000 as recommended by Attorney Audrey Forbush, the Attorney for Record for Officer Eads and the City of Burton.

Motion carried 6-0.

Meeting adjourned at 8:45 p.m.

Julie Adams, City Clerk